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ABSTRACT

It appears that many of the problems plaguing the Federal Student Aid Programs are also undermining the Pell Grant program, not so much from dishonesty on the part of students, but by dishonesty on the part of schools. This document presents testimony and prepared statements concerning the allegations of fraud, abuse, and mismanagement in the Federal Pell Grant program and the effectiveness of the Department of Education in detecting and responding to these problems. Two-thirds of the document is an appendix of 96 exhibits of selected documents, letters, affidavits, and reports from witnesses in order of their appearance before the committee. Among the witnesses testifying before the committee were the following individuals: Senator Claiborne Pell of Rhode Island; Richard C. Stiener, Director of the Office of Special Investigations, U.S. General Accounting office; James B. Thomas, Jr., Inspector General, U.S. Department of Education; David A. Longanecker, Assistant Secretary, Office of Postsecondary Education, U.S. Department of Education; and Sister Janet Fitzgerald, President of Molloy College, Long Island, New York. (GLR)

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ABUSES IN FEDERAL STUDENT GRANT PROGRAMS

HEARINGS

BEFORE THE

PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

OCTOBER 27–28, 1993

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CONTENTS

Opening statements: Page
Senator Nunn 1, 73
Senator Cohen 5
Senator Cochran 7
Prepared statements:
Senator Cohen 6
Senator Kennedy 13
Senator Dorgan 14
Senator Roth 14
Senator Sasser 15

WITNESSES

WEDNESDAY, OCTOBER 27, 1993

Hon. Claiborne Pell, U.S. Senator from the State of Rhode Island 9
Richard C. Stiener, Director, Office of Special Investigations, U.S. General Accounting Office, accompanied by Clarence Crawford, Director, Education and Employment Issues; Donald Wheeler, Deputy Director, Office of Special Investigations; and Robert Hast, Assistant Director, Office of Special Investigation, New York 17
Alan Edelman, Counsel, Permanent Subcommittee on Investigations 31
David B. Buckley, Chief Investigator, Permanent Subcommittee on Investigations 47
Scott E. Newton, Investigator, Permanent Subcommittee on Investigations 57

THURSDAY, OCTOBER 28, 1993

James B. Thomas, Jr., Inspector General, U.S. Department of Education 75
David A. Longanecker, Assistant Secretary, Office of Postsecondary Education, U.S. Department of Education, accompanied by Donald Wurtz, Assistant Secretary and Chief Financial Officer, U.S. Department of Education 82
Sister Janet Fitzgerald, President, Molloy College, Rockville Centre, Long Island, New York, accompanied by Sister Patricia Morris, Vice President of Academic Affairs and Richard J. Schure, Esquire 117

ALPHABETICAL LIST OF WITNESSES

Buckley, David B.:
Testimony 47
Edelman, Alan:
Testimony 31
Fitzgerald, Sister Janet:
Testimony 117
Prepared statement 229
Longanecker, David A.:
Testimony 82
Prepared statement 224
Newton, Scott E.:
Testimony 57
Pell, Hon. Claiborne:
Testimony 9
Prepared statement 11

Page
Stiener, Richard C.:
    Testimony 17
    Prepared statement 199
Thomas, James B.:
    Testimony 75
    Prepared statement 212

APPENDIX

Staff statement 135
Prepared statements of witnesses in order of appearance 11

EXHIBITS

1. Selected documents from U.S. Department of Education certification and eligibility files regarding Beth Rochel Seminary .... *
2. Beth Rochel School Bulletin, Independent Study Program, dated 1989–90, 1990–91 and 1991–92 .... *
3. Selected documents pertaining to the accreditation of Beth Rochel Seminary by the Accrediting Council for Continuing Education & Training (ACCET), dated August 23, 1990 through October 22, 1991 .... *
4. Miscellaneous documents regarding Beth Rochel Seminary Mentor Employees .... *
5. Beth Rochel School for Girls "Personnel Manual" .... *
6. U.S. Secret Service Report of Examination regarding Handwriting Analysis of Pell Grant applications and various school documents, with exhibits .... *
7. Deposition of Rabbi Jacob Rosenbaum, Director, Beth Rochel Seminary, before the Senate Permanent Subcommittee on Investigations, dated June 30, 1993 .... *
8. SEALED EXHIBIT: Various workpapers of the U.S. General Accounting Office, Office of Special Investigations, regarding investigation of Beth Rochel Seminary, including students applications for enrollment, reduced priced meals, transportation and the Beth Rochel School for Girls .... *
9. SEALED EXHIBIT: U.S. Department of Education Pell Grant Program Student Payment Summary for Beth Rochel Seminary for the 1990–91 and 1991–92 school years .... *
10. Financial Statement of Beth Rochel Seminary, as prepared by Mayer Rispler & Company, Certified Public Accountants, as of June 30, 1988 .... *
11. Letter to Beth Rochel Seminary, dated September 23, 1992, from U.S. Department of Education, regarding intention to terminate the school from Federal Student Financial Aid .... *
12. U.S. Department of Education Decision, issued October 20, 1993, regarding Beth Rochel Seminary's termination of the eligibility to participate in the Federal Student Financial Aid Programs .... *
13. Letter to the Permanent Subcommittee on Investigations, dated September 20, 1993, from Leigh M. Manasevit, Esquire, Brustein & Manasevit, regarding Tzini Berger .... *
14. Selected documents pertaining to U.S. Department of Education eligibility determination of Sara Schenirer Teachers Seminary, Brooklyn, New York, dated August 8, 1974 through May 13, 1993 .... *
15. Selected documents pertaining to the accreditation of Sara Schenirer Teachers Seminary by the Accrediting Council for Continuing Education & Training (ACCET), dated September 5, 1988 through April 14, 1992 .... *
16. Program and institutional catalogues of Sara Schenirer Teachers Seminary, dated 1988–89, 1989–90, 1990–91 and 1992–93 .... *
17. Internal Revenue Service Forms 990 for the years 1989 through 1991, as filed by Sara Schenirer Teachers Seminary .... *

Page

18. Financial Reports (Balance Sheet Compilation) of Beis Sefer Govoha Lebanos Sara Schenirer, as prepared by Hirsch, Oelbaum, Bram & Hanover, Certified Public Accountants, for the years 1989 through 1992 .... *
19. Auditor's Reports and Examinations (2) of Sara Schenirer Teachers Seminary's participation in the Student Financial Assistance and Pell Grant Programs, prepared by Samuel Kohn, CPA, for the periods July 1, 1988 through June 30, 1989, and July 1, 1989 through June 30, 1991 and supporting workpapers .... *
20. Settlement Agreement between Sara Schenirer Teachers Seminary and the U.S. Department of Education, pertaining to the school's failure to submit audits of its administration of Federal student financial aid funds, dated April 13, 1990 .... *
21. Review of Sara Schenirer Teachers Seminary's Eligibility to Participate in Federal Student Financial Aid Programs, prepared by the U.S. Department of Education, Office of Inspector General, Audit Control Number 02–40082, dated January 28, 1986 and related materials *
22. Program Reviews (2) of Sara Schenirer Teachers Seminary, prepared by the U.S. Department of Education, dated September 26, 1991 and June 30, 1993 .... *
23. SEALED EXHIBIT: U.S. Department of Education Pell Grant Program Student Payment Summary for Sara Schenirer Teachers Seminary for the 1992–93 school year .... *
24. Letter to the Permanent Subcommittee on Investigations, dated October 12, 1993, from Michael D. Hays, Esquire, Dow, Lohnes & Albertson, regarding testimony of Michoel Meisels and Tobi Broyde .... *
25. Agreement and Understanding Between Sara Schenirer Teachers Seminary and Innovative Consultants (Mr. Yehuda Lowinger), for the period September 1, 1989 through August 31, 1991 .... *
26. Letter to Permanent Subcommittee on Investigations, dated October 13, 1993, from George S. Meissner, Esquire, Meissner, Kleinberg & Finkel, regarding Yehuda Lowinger .... *
27. Letter to Permanent Subcommittee on Investigations, dated October 5, 1993, from M. Joshua Aber, Esquire, regarding Yitzchak Eichenthal .... *
28. Memorandum of Permanent Subcommittee on Investigations, dated August 17, 1993, regarding telephone conversation with Michael D. Hays, Counsel for Sara Schenirer Teachers Seminary .... *
29. Memorandum of the Permanent Subcommittee on Investigations, dated September 8, 1993, listing Sara Schenirer Teachers Seminary students who attended multiple schools and received Pell Grants .... *
30. Affidavit of Donald S. Bluestone made to the Permanent Subcommittee on Investigations, dated July 20, 1993, regarding Sara Schenirer Teachers Seminary 264
31. SEALED EXHIBIT: Various memoranda of interviews prepared by Office of Special Investigations, General Accounting Office .... *
32. SEALED EXHIBIT: Student files produced by Bais Fruma pursuant to Permanent Subcommittee on Investigations' subpoena .... *
33. SEALED EXHIBIT: Selected Bais Fruma student files from the office of Jacob Ginzburg .... *
34. SEALED EXHIBIT: Monthly account statements and cancelled checks reflecting checking accounts held by Bais Fruma at various banking institutions for the period 1989–93 .... *
35. Letter to Alan Edelman, Esquire, Permanent Subcommittee on Investigations, dated October 20, 1993, from David S. Sabghir, Esquire, regarding appearance before the Subcommittee of Mr. B. Eliezer Herbst .... *
36. Letter to Alan Edelman, Esquire, Permanent Subcommittee on Investigations, dated October 12, 1993, from George S. Meissner, Esquire, regarding appearances before the Subcommittee of Messrs. George Goldberger, Yitzchak Klein, Charles Ettinger, and Tovia Rottenberg *
37. Letter to Alan Edelman, Esquire, Permanent Subcommittee on Investigations, dated October 12, 1993, from George S. Meissner, Esquire, regarding appearance before of the Subcommittee of Messrs. S. Kohen and Sandy Gross .... *
38. Various forged verification letters taken from student files from offices of Jacob Ginzburg 274

Page

39. Handwritten, signed statement prepared by Sara Hoffman, dated August 30, 1993, regarding non-attendance at Bais Fruma 278
40. Excerpt from "Directory of Nonpublic Schools and Administrators/New York State/1991–92" ...... *
41. Correspondence between Permanent Subcommittee on Investigations and attorneys for Rabbi Simche Waldman, Director, Bais Fruma, dated July 8 through October 26, 1993, regarding Rabbi Waldman's appearance before the Subcommittee pursuant to Subcommittee subpoena 279
42. Auditor's Reports and Examinations (2) of Bais Fruma's participation in the Student Financial Assistance and Pell Grant Programs, prepared by Samuel Kohn, CPA, for the periods July 1, 1987 through June 30, 1989, and July 1, 1989 through June 30, 1991 and supporting workpapers ...... *
43. Selected documents from Bais Fruma's files on Eligibility and Certification with the U.S. Department of Education ...... *
44. Bais Fruma's *Self-Directed Study Program—Academic Bulletin, 1991–1993* ...... *
45. Letter, dated September 24, 1993, to Alan Edelman, U.S. Senate, Permanent Subcommittee on Investigations, from Fred E. Nussbaum, CPA, Brooklyn, New York, regarding accounting workpapers for Bais Fruma for the fiscal year ended August 31, 1992 ...... *
46. Two (2) Bais Fruma Auditor's Report and Examination of the Pell Grant Program, July 1, 1987 through June 30, 1989 and July 1, 1989 through June 30, 1991, prepared by Samuel Kohn, CPA ...... *
47. Bais Fruma Financial Statements, August 31, 1990 and August 31, 1992, prepared by Fred E. Nussbaum, CPA ...... *
48. Letter, to Mr. S. Waldman, Bais Fruma, dated November 30, 1992, from Victoria Edwards, Acting Chief, Audit Resolution Branch, Institutional Monitoring Division, U.S. Department of Education, regarding audit report of Bais Fruma's Title IV Student Financial Assistance Programs ...... *
49. *Analytical Self-Evaluation Report*, Presented to Accrediting Commission for Continuing Education and Training by Bais Fruma, April, 1991 *
50. Bais Fruma's Cash Disbursements Journal, September 1, 1991 to August 31, 1992 ...... *
51. Signed blank Pell Grant Applications and Bais Fruma documents from the office of Jacob Ginzburg ...... *
52. 1992–1993 Molloy College Catalogue of graduate and undergraduate programs ...... *
53. a. Correspondence between Molloy College, the U.S. Department of Education, and the New York State Department of Education, dated April-October 1993, regarding 1993 Program Review Report and Audit Report conducted by the U.S. Department of Education and the New York State Office of the Comptroller ...... *
    b. SEALED EXHIBIT: State of New York, Office of the State Comptroller, 1993 "HESC–TAP/Preliminary Audit Finding/Molloy College/Report 93–T–7" ...... *
54. a. "Memorandum of Understanding Between Molloy College and The Academy for Jewish Education," dated November 10, 1987 ...... *
    b. "Memorandum of Understanding Between Molloy College and Long Island Seminary of Jewish Studies for Women," dated November 10, 1987 ...... *
    c. Boiler plate "Memorandum of Understanding" used by Molloy College *
55. List prepared by Molloy College showing contacts for each Molloy College off-site location, dated May 26, 1993 ...... *
56. List prepared by Molloy College of suggested course of study for Fall 1991 Semester of the Associates Degree Program for Recent Immigrants ...... *
57. List prepared by Molloy College regarding enrollment, withdrawal, and percent completion rates for each off-site location for the Associates Degree Program for Recent Immigrants, dated Fall 87 through Spring 93 ...... *
58. List prepared by Molloy College of total Pell Grant awards, total off-site institutional aid and total funds received by Molloy College from each off-site location for the Associates Degree Program for Recent Immigrants 294

Page
59. List of Molloy College On-Campus Institutional Aid for the years 1983–1993 ..... *
60. SEALED EXHIBIT: U.S. Department of Education Pell Grant Program Student Payment Summary for Molloy College for the 1992–93 school year ..... *
61. SEALED EXHIBIT: Molloy College list of 1992 student assistance awards for the Institute for Refugees from Eastern Europe ..... *
62. "Metropolitan Education Center (M.E.C.)—Mentoring Program" booklet *
63. Resumes of adjunct lecturers employed by Molloy College in their Associates Degree Program for Recent Immigrants. ..... *
64. Correspondence between Molloy College and Off-Site Administrators, dated January-June 1993, regarding continuation of Associates Degree Program for Recent Immigrants for Fall-93 Semester ..... *
65. Commission on Higher Education of the Middle States Association of Colleges and Schools' Evaluation Team Report of Molloy College (October 18–21, 1992) ..... *
66. Letter to the Permanent Subcommittee on Investigations, dated September 9, 1993, from Commission on Higher Education, regarding October 18–21, 1992 Evaluation Team Report of Molloy College ..... *
67. Textbooks (2) used by Molloy College off-site locations for their Associates Degree Program for Recent Immigrants ..... *
68. Listing, prepared by the U.S. Department of Education, of 21 ACCET Accredited Avocational Schools 296
69. Listing, prepared by the U.S. General Accounting Office, of "23 Yeshiva or Yeshiva-Affiliated Schools Investigated by the GAO" 301
70. Listing, prepared by the U.S. Department of Education, of 23 schools indicating level of "HEA Title IV Student Financial Aid Programs Funding: 1981 to 1993" ..... *
71. Listing of State Higher Education Executive Officers as of August 1, 1993 ..... *
72. 1993 Directory of Institutions Accredited by ACCET ..... *
73. Documents provided by ACCET concerning ACCET policies, procedures, guidelines and standards governing ACCET and its accredited institutions ..... *
74. U.S. Department of Education Pell Grant Program guidelines as of November 6, 1991 ..... *
75. Memorandum, President's Council on Integrity & Efficiency, dated June 15, 1993, regarding Quality of Non-Federal Audits for the Six Month Period Ended March 31, 1993 ..... *
76. U.S. Department of Education, Office of Inspector General Audit, entitled "Improvements Needed In Quality of Vocational Training, March 1987" ..... *
77. Report, U.S. General Accounting Office, "Department of Education: Long-Standing Management Problems Hamper Reforms" (GAO/HRD–93–47) May 1993 302
78. Report, U.S. General Accounting Office, "Financial Audit: Guaranteed Student Loan Program's Internal Controls and Structure Need Improvement" (GAO/AFMD–93–20) March 1993 ..... *
79. Report, U.S. General Accounting Office, "Student Financial Aid: Education Can Do More To Screen Schools Before Students Receive Aid" (GAO/HRD–91–145) September 1991 ..... *
80. Testimony of U.S. General Accounting Office, "Direct Student Loan: The Department of Education's Implementation Of Direct Lending" (GAO/T–HRD–93–26) June 10, 1993 ..... *
81. a. Letter to the Honorable Thomas Sobol, Commissioner, New York State Education Department, dated December 2, 1991, from Roland M. Malan, Office of the State Comptroller, New York, regarding Rockland Community College Overseas Program (Report 89–T–6) ..... *
    b. Letter to the Honorable Thomas Sobol, Commissioner, New York State Education Department, dated December 5, 1991, from Roland M. Malan, Office of the State Comptroller, New York, regarding Rockland Community College New Square (Report 89–T–7) ..... *
    c. Decision and Order, State of New York Supreme Court, In the Matter of the Application of Rockland Community College, dated August 10, 1992 ..... *

Page

82. Letter to Mr. Sholom Rosengarten, Director, Beth Medrash Eeyun Hatalmud, dated June 10, 1993, from U.S. Department of Education, regarding emergency action against the school's participation in Federal Student Aid Programs .... *
83. Letter to The Honorable Richard Riley, Secretary, U.S. Department of Education, dated January 21, 1993, from Senators Moynihan, D'Amato, Lieberman and Spector, regarding reviews of Judaic schools, and Riley's February 16, 1993 response .... *
84. Letter to The Honorable Richard Riley, Secretary, U.S. Department of Education, dated July 28, 1993, from Senator Sam Nunn, regarding Federal Pell Grant Program, and Riley's October 13, 1993 response 343
85. U.S. Senate Permanent Subcommittee on Investigations Subpoena #E03021 served on Traditional Jewish Studies Center, 5801 15th Avenue, Brooklyn, New York, served February 23, 1993 .... *
86. Fire and Incident Report, Bureau of Fire Investigation, Fire Department of New York, regarding July 8, 1993 fire at 5801 15th Avenue, Brooklyn, New York .... *
87. Selected documents, provided by the U.S. Department of Education, regarding historical problems in the determination of Federal Student Financial Aid Eligibility of Judaic Schools, dated August 7, 1967 through October 1, 1987 351
88. SEALED EXHIBIT: Listing, prepared by the U.S. General Accounting Office, of persons who received Pell Grant funds who were also clients of Jacob Ginzburg, Penn Star Consultants, New York, New York *
89. Affidavit of Wendy Ifill Nee: Griffith made to the U.S. General Accounting Office, dated September 21, 1993, regarding Ifill's employment by Jacob Ginzburg 453
90. Letter for the Record of Kansas Independent College Association, dated October 26, 1993 478
91. Letter to Senator Sam Nunn, dated October 27, 1993, from Leigh M. Manasevit, Brunstein & Manasevit, regarding statement of the Council of Judiac Schools 480
92. Letter to Senator Sam Nunn, dated November 23, 1993, from Senator Claiborne Pell, in response to questions raised at Subcommittee's October 27, 1993 hearing 483
93. Responses of David A. Longanecker, Assistant Secretary, Office of Postsecondary Education, U.S. Department of Education to Permanent Subcommittee on Investigations' additional questions for the record 484
94. Responses of James B. Thomas, Jr., Inspector General, U.S. Department of Education to Permanent Subcommittee on Investigations' additional questions for the record. 533
95. Department of Education submission re: "Standard In The Institutional Quality Assurance Program" 544
96. Correspondence between Moshe Zev Weisberg, President, Yeshiva Administrators of Financial Aid and Permanent Subcommittee on Investigations, regarding usage of term "Yeshiva" at Subcommittee's hearings 548

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* Retained in the files of the Subcommittee.

ABUSES IN FEDERAL STUDENT GRANT PROGRAMS

WEDNESDAY, OCTOBER 27, 1993

U.S. Senate,
Permanent Subcommittee on Investigations,
Committee on Governmental Affairs,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:05 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Sam Nunn, Chairman of the Subcommittee, presiding.

Present: Senators Nunn, Roth, Cohen, and Cochran.

Staff Present: Eleanore J. Hill, Chief Counsel; John F. Sopko, Deputy Chief Counsel; Mary D. Robertson, Chief Clerk; Alan Edelman, Counsel; Eleni P. Kalisch, Counsel; David B. Buckley, Chief Investigator; Harold B. Lippman, Investigator; R. Mark Webster, Investigator; Scott E. Newton, Investigator; Cynthia Comstock, Executive Assistant to Chief Counsel; Declan Cashman, Staff Assistant; Daniel F. Rinzel, Minority Chief Counsel; Stephen H. Levin, Minority Counsel; W. Leighton Lord III, Minority Counsel; Carla J. Martin, Minority Assistant Chief Clerk; Mike Maloney, Senior Auditor, GAO Detail; John Forbes, Investigator (Customs); Gene Richardson, Investigator (AID); Betty Ann Soiefer (Senator Glenn); John Nakahata (Senator Leiberman); Kelly Metcalf (Senator Cohen); Paulina Collins (Senator Cohen); Doris Dixon (Senator Cochran); and Steven Burns (Senator Sasser).

OPENING STATEMENT OF CHAIRMAN NUNN

Chairman Nunn. The Committee will come to order. Today, the Permanent Subcommittee on Investigations begins the first in a series of hearings to examine allegations of fraud, abuse, and mismanagement in the Federal Pell Grant program.

We begin this investigation with the recognition that the Pell Grant program is one of the most important Federal programs, because it enables millions of young men and women to pursue educational opportunities which they otherwise would be forced to forego because of their income levels. This is a goal which is not only laudable, but is very important to our country's future. It is a goal which I wholeheartedly support. The budgetary reality, however, is that funding for this important program is not unlimited. Indeed, due to budget constraints, the Pell Grant program, for several years now, has not been fully funded.

This fact makes hearings such as these all the more necessary. Every penny of Pell Grant money wasted due to fraud, abuse, or just mismanagement, results in a direct reduction of the funds available to truly needy and worthy students. Unfortunately, today's hearings will reveal that there is, in fact, a great deal of fraud and abuse going on within this program, and, moreover, that the ability of the Department of Education to detect and respond effectively to these problems in the Pell Program has been woefully inadequate.

I regret to say that I am not surprised by these revelations. In 1990, this Subcommittee held a series of hearings examining the operation of the Federal Guaranteed Student Loan program. Those hearings uncovered widespread abuse and fraud on the part of many key participants in the student loan program. In addition, the hearings revealed serious deficiencies in the role played by the Department of Education in administering and overseeing that program. As a result of those hearings, this Subcommittee issued a 1991 report entitled, "Abuses in the Federal Student Aid Programs," which was highly critical of almost every aspect of the operation and administration of the student loan program. The report contained over 25 separate recommendations for reform of the program, many of which were ultimately incorporated into amendments to the Higher Education Act, which were enacted in 1992, and some of the regulations are just being issued.

It now appears that many of the same systemic weaknesses that plagued the student loan program also are undermining the Pell Grant program. Indeed, I do not believe it would be an exaggeration to say that the Subcommittee's report language on the student loan program could, with only slight modifications, apply equally as well to the Pell Grant program. As we saw with the student loan program, it appears that some of the biggest abuses within the Pell Grant program are being perpetrated not so much by dishonest students, but by dishonest schools. As one senior Department of Education official told the Subcommittee Staff:

> We are being beaten at every turn. The crooks open a new school, run thousands of students through their program, close their school, and retire as millionaires before they were even scheduled for a program review.

In future hearings, the Subcommittee will examine in great depth the role played by the proprietary trade school sector within the Pell Grant program and allegations of abuse by that sector. Today, however, the Subcommittee turns its attention to allegations of abuses among schools of a far different nature. The focus of today's hearings will be certain not-for-profit schools, run by tax-exempt religious organizations which offer so-called "Judaic Studies" and "Immigrant Culture" programs.

These programs, for the most part, confer non-vocational certificates rather than bachelor's degrees, and their curriculum consists primarily of the study of religious texts and the Hebrew language. The Immigrant Culture programs also heavily concentrate on teaching basic English language skills. These programs, which have focused on attracting students from the Orthodox Jewish and Russian immigrant populations, have received hundreds of millions of dollars in Pell Grant funds over the past 10 to 15 years.

Just last week, the Department of Education sent letters to 20 such schools, questioning their eligibility to participate in the Federal student aid programs because of their inability to meet certain statutory criteria. These letters were the first step toward possible termination of these schools from future participation in the Pell Grant, and other student financial assistance programs.

While I am pleased to see that the Department of Education is taking action to protect the taxpayer from subsidizing potentially ineligible schools, I have to question why it has taken so long for such action to be instituted. Very early on in this investigation, the General Accounting Office—whom we will hear from today—as well as the Subcommittee Staff raised questions with the Department about the ability or inability of many of these schools to meet the statutory criteria necessary for program participation. If such questions were evident to the Staff after only a few weeks of investigation, how have these schools managed to stay in this program for 10 to 15 years or more without ever having to answer such questions from the Department?

In addition to this most basic question, the Subcommittee's investigation, and a supporting investigation conducted by the Office of Special Investigations of the General Accounting Office, have raised a number of disturbing questions about other activities on the part of these schools. Among the findings which will be reported today by the Staff and by the General Accounting Office are the following:

> Many of these schools have set their tuition charges at artificially high levels, totally unrelated to their true costs, in order to enable their students to qualify for the maximum amount of Pell aid available.
>
> Many of these schools exist only because of their participation in the Pell Grant program. They have few, if any, cash-paying students, and in some instances over 90 percent of their income is derived from Pell Grant funds.
>
> Many of the Immigrant Culture programs paid the students a 'stipend' for attending classes. Moreover, the Staff found that many students attended only in order to get paid and not with the intent of achieving any educational or vocational goal.
>
> Many schools have apparently disbursed Pell Grants to ineligible students. In some instances, the students already had received a degree in higher education. In other instances, the students were still enrolled in high school.
>
> Some schools have apparently paid brokers to provide them with Pell Grant-eligible students, often paying $50–$75 a head for each student enrolled. In some cases, it appears that schools may have purchased biographical information to be used in filling out Pell Grant applications without regard to whether students actually enrolled or not. Both the Staff and the GAO have uncovered numerous instances of schools which received Pell Grant disbursements on behalf of students who denied ever attending those particular schools.
>
> Some schools have apparently used falsified and even forged documents to obtain Pell Grant funding for their students.

In addition to these findings about the schools participating in the Pell Grant program, the Staff will also report on its findings regarding the management of the Pell Grant program by the Department of Education. The Staff's findings in this regard are disturbing, as well. Of these, perhaps the most disturbing is the finding that the Department historically has not been, nor is it now, adequately staffed or trained to properly conduct the gate-keeping and oversight functions, which are essential to ensure program integrity and the disbursement in an efficient and meaningful way of billions and billions of dollars of U.S. taxpayer money.

This investigation has raised a number of very serious policy implications for the future operation of the Pell Grant program, implications which this Subcommittee, and this Congress, cannot afford to ignore. For instance:

> This program is designed to help undergraduate students in obtaining a bachelor's degree or training for a specific vocation. Eligible schools include colleges, universities, as well as trade schools. However, many of the Judaic Studies programs are non-vocational. They clearly admit that they are not designed to lead to job opportunities or to an increased earning-potential. In reality, they are vehicles by which orthodox Jewish men and women can fulfill the dictates of their religion in terms of the study of their sacred texts. While the study of one's religion is certainly a laudable pursuit, one must question whether Federal student aid programs should be used to fund such schools."
>
> Many of the Immigrant Culture programs attract students by paying them a "stipend" ranging from $200–$500 per semester. The money for this stipend comes from the Pell Grant funds which the school receives once the student enrolls. In many cases, the only reason the students attend these programs is to obtain the stipend, which often pays them more than they receive from other direct governmental assistance programs in which they participate. I have great sympathy for the plight of new immigrants to this country and their problems are certainly well known to many of us in terms of accommodating to a new language, a new culture, and a new society. However, if our concern is to assist the new immigrant, we should do it directly, rather than through a program which allows an intermediate institution to skim anywhere from 70–90 percent off the top while providing the immigrant with little, if any, in practical skills.
>
> The Department recognizes schools for participation in student aid programs. It does not go beyond the institutional level to determine what types of programs are actually being offered by the schools. Because of this, once a school has been authorized to participate in Federal student aid programs, any programs offered by the school are likewise eligible for participation. This leads to cases such as that which the Staff will discuss in which an eligible four-year, degree-granting institution set up highly questionable off-campus Immigrant Culture programs. I think it is time that the Department of Education takes a closer look at exactly what it is funding.

I believe that it is also time that we make clear that institutional participation in student aid programs is a privilege and not an absolute right. During the course of this investigation, the Subcommittee received little or not cooperation from the schools, their administrations, or their students. Individuals within the ultra-Orthodox community were forbidden by religious leaders from talking to the Subcommittee, and others invoked their constitutional privileges against self-incrimination as a reason for refusal to submit to the examination by the Staff and by the GAO. Investigations by the General Accounting Office and the Department of Education itself have also been met with delay, obstruction, and a refusal to cooperate. At the same time, these schools continued to received millions of Federal dollars each year as a result of their participation in student aid programs.

The Federal Government, at least from my perspective, has every right to inquire into the programs run by these schools to ensure that Federal funds are being used appropriately. Perhaps it is time to consider whether schools which refuse to cooperate with legitimate governmental inquiries about the use of Federal taxpayer funds should be debarred from participation in this, or any other, Federal program.

We have a new administration heading the Department of Education now. I have great confidence in Secretary Dick Riley, Deputy Secretary Madeline Kunin, and Assistant Secretary David Longanecker. I believe them when they say that they will give this area high priority, and I hope they will provide the Department with the strong management and leadership which it so clearly requires.

I recognize and appreciate the fact that they have candidly acknowledged the problems they face. They have made the commitment to vastly improve the Department in this program. To their credit, they have already taken steps to put the Department back on the right track; however, given the magnitude of this program, and the Department's problems, as well as its history, the Department of Education still has a long way to go to gain the kind of capabilities that are essential to run this program properly. The Department has to have trained people in this area. It does not have those people now, certainly in sufficient numbers.

In closing, I would like to thank Senator Roth and the Minority Staff for their support of this investigation. I look forward to working with them and all the members of this Committee to ensure that our student aid programs can continue to pursue the laudable goals for which they were created.

Senator Cohen.

OPENING STATEMENT OF SENATOR COHEN

Senator **COHEN**. Thank you very much, Mr. Chairman. First let me associate myself with your remarks. I think it is pretty evident, as we look around the country, that the public has become greatly discontented with our system. And I think it is because they feel that we have lost control of our budgets. We have lost control of our borders. We have lost control of our streets. In many ways, lost control of the quality of life that we expect to live.

Last spring, the Congress passed a roughly $250 billion tax increase. It came over great objection on the part of some in Congress and, I suspect, many in the country itself because most people intuitively understand that there is a tremendous amount of waste in Federal spending. All of us here in this Committee and the Congress continue to repeat the words of fraud, waste, and abuse as if it is some kind of a mantra. We say it over and over again. The problem is very little seems to be done about it.

Mr. Chairman, Congress recently appropriated $6.6 billion for the Pell Grant program. This represents about a $95 million increase over fiscal 1993, so there is tremendous support for the program. Roughly one out of every four postsecondary students now receives a Pell Grant. What is most troubling from the Chairman's statement is that the Committee staff and other witnesses will reveal that some 4,000 students have received Pell Grants for a period of 11 years or more. One student even received Pell Grants for 17 years.

It reminded me of the joke that is told by one of the passengers on the Titanic who is reported to have said, "I know I rang for ice, but this is ridiculous." This is ridiculous. Mr. Chairman, Senator Cochran and others will recall, in law school we studied the rule against perpetuities. A rule that said that an interest must vest within lives in being plus 21 years. And it seems to me, the whole notion of the Pell Grant program was not to provide someone with a life stipend as appears to be the case in the example of the student who received Pell Grants for 17 years.

Mr. Chairman, you have held hearings over the years that I have been on this Committee which have ranged all the way from chop shops to money laundering to organized crime, and there seems to be a familiar pattern to all of it. Whenever there are large amounts of money involved, you can expect there is going to be fraud as well. A large amount of money, very little risk of detection, little risk of prosecution, little risk of conviction, and little risk of penalty—all of those ingredients add up to a case of fraud, waste and abuse, and that appears to be what we have in this particular case.

I will conclude, Mr. Chairman, because I see we have a distinguished witness, the father of the Pell Grant program, Senator Pell. I noticed an article that appeared in *The New York Times* on this past Sunday, and it caught my attention because I was anticipating these hearings. It reads, "A Father's Dream, A Son's Nightmare." And it involves an individual, Mr. B. Ray Thompson, a former coal miner. It was 1941—he was so poor at that time that he could not even afford to keep his children in shoes. He died about 6 years ago, one of the wealthiest men in this country.

At the death of his second wife from cancer, he decided to set up a foundation, the Thompson Cancer Survival Center, to rival the Memorial Sloan-Kettering Cancer Center and other types of similar institutions. He contributed some hundred million dollars to that foundation. Now we have the son lodging a challenge, an accusation, where he accuses the hospital company that runs the Thompson Cancer Survival Center of engaging in unethical practices that enrich local doctors and increase the company's revenues. Paying for it all, he says, are the very patients his father meant to help, as well as their employers and the American taxpayer.

It seemed to me that there was a parallel here. I am not sure what the merits of the case are, but Mr. Richard Kusserow who has testified on many occasions before this Committee and others has now been hired to conduct an investigation of the practices surrounding this particular center. It seems to me we have at least similar allegations involved here and I surely hope that the father's dream does not become the son's nightmare in this particular case. Thank you, Mr. Chairman.

PREPARED STATEMENT OF SENATOR COHEN

Today's hearing will reveal some very unsettling news for this country's taxpayers. The situations we will hear about should never have occurred and instances like these should not be permitted to occur from this point on.

The Federal Pell Grant Program is designed to help the neediest students pay for their education after high school. Without these grants, many students would have great difficulty in attending college. In fact, some of them would not be able to attend.

Congress has been quite supportive of the Federal Pell Grant Program. Last week, for example, the Senate appropriated $6.6 billion in fiscal year 1994 for Pell Grants. This represents an almost $95 million increase over the 1993 level. According to one of our witnesses from the U.S. Department of Education, today "more than 4 million students—almost 25 percent of all students attending our postsecondary institutions—receive Pell Grants."

The American taxpayer demands that the money Congress appropriates for Pell Grants be spent wisely—on eligible students working toward a degree within a reasonable period of time in eligible programs. As representatives of the people footing the bill, members of Congress intended that the U.S. Department of Education monitor the awarding of Pell Grant money. Unfortunately, these hearings will illustrate that, despite its good intentions, the department is not performing this function very well.

Congress, for example, did not intend for students to use the Federal Pell Grant Program for extended periods of their lives. Unfortunately, over 4,000 Pell Grant recipients have received federal Pell Grant money for over 11 years. One individual received Pell Grants for 17 years. This is simply outrageous. It is my understanding, moreover, that department officials did not know about these cases until this subcommittee asked for the data. Under the current system, students can essentially received Pell Grants for the rest of their lives.

Today's hearing will also show other abuses in the system: ineligible schools being allowed to participate in the Federal Pell Grant Program; students denying they have attended classes for which they received Pell Grant money; schools with questionable education programs existing simply because of their ability to receive Pell Grants; for-profit trade schools continuing to offer substandard training; and charges of prejudice when congressional staff ask simple questions to ensure fiscal accountability of federal money. These are disturbing findings, and ones that must be corrected immediately. To not do so may mean that fewer poor students who are eligible for federal assistance will go to school.

In closing, I want to thank the Chairman for holding these important hearings. The Federal Pell Grant Program has serious problems, and I am pleased that we will be addressing these abuses and their remedies both today and tomorrow. I understand that the U.S. Department of Education is taking steps to identify and stop abuses in the Federal Pell Grant Program. Like other members of this subcommittee, I intend to make sure that these steps continue and that real progress is made in stopping abuses. Maine demand this of me, and American taxpayers demand this of their government.

Chairman NUNN. Thank you very much, Senator Cohen. Senator Cochran.

OPENING STATEMENT OF SENATOR COCHRAN

Senator COCHRAN. Mr. Chairman, let me just thank you for conducting this investigation and directing the Staff in the work that has been done on this subject. Before we legislated changes in the loan programs for higher education in 1992, the Labor Committee, which our distinguished colleague chairs the Education Subcommittee and the Labor Committee, had the benefit of the work of this Subcommittee and the work that had been done by the Staff under the direction of the Chair of this Subcommittee, which identified a lot of abuses and shortcomings of the loan programs. Those 1992 amendments that were approved by the Congress have put in place some changes that in my view are going to improve significantly the management and the conduct of those loan programs to prevent the kinds of abuses and shortcomings that were identified by this Investigations' Subcommittee.

One unfortunate result, however, was not recommended by the Education Subcommittee under the chairmanship of Senator Pell and that was the change to require the Government to engage in direct lending to colleges and to students. The shortcomings that the Chairman just mentioned in the Pell Grant program in some respects are related to inadequate staffing, the inability of the Department of Education administrators to cope with the responsibilities of such a large grant program as the Pell Grant program.

What Congress did after it approved the 1992 amendments was to adopt in the reconciliation process a new direct lending program that now puts the Department of Education not only directly involved in making grants, but in making loans as well. Turning our backs on the experiences that had been built up over time where the private sector was involved in actually making the loans and the Government involved to a lesser extend in the direct administration of the loan program.

So I predict, Mr. Chairman, that one other step ought to be taken by this Subcommittee; and, that is, to carefully monitor the new direct lending program that was enacted without any legislative committee recommending its enactment, but enacted purely as a part of a reconciliation process where no amendments could be offered, not much debate could be conducted, and I hope that it turns out better than I expect it to.

But let me again thank the Chairman for his conduct of this inquiry. I am confident that the information that is obtained and the facts that are brought out will help us to make reforms, make changes that will further improve the administration of this important program. It is very important in my State of Mississippi. There are some colleges and universities where virtually all the students are there on Pell Grants, and were it not for the Pell Grant program, many of those colleges and postsecondary institutions would not have any way to exist. So it is extremely important that we ensure that this program works as intended and I am happy to be here and to welcome our distinguished colleague.

Chairman NUNN. Thank you, Senator Cochran. I would share your concern about the direct lending program and I pointed that out in speeches and comments to a number of people last year and earlier this year when we were talking about it. The concept is one thing; the implementation is another. We deal in concepts in the Congress and people in the Executive Branch have to implement. The Department of Education has got a long, long way to go to be able to have the kind of trained people needed to carry out existing programs, let alone new programs. So the implementation side of that has a lot of questions to it and I think it does have to be watched very carefully. So we will join others in doing that.

Our first witness this morning is the Honorable Claiborne Pell, the senior Senator from Rhode Island, whose name this worthy program bears. In addition, Senator Pell is chairman of the Authorizing Committee for this program, the Subcommittee on Education, Arts and Humanities. Senator Pell has worked long and hard during his career to help the underprivileged obtain the access they need to higher education. Through this basic educational grant program, literally millions of Americans have benefited.

Senator Pell, we are happy to have you with us this morning and look forward to your thoughts on this investigation of this program, and I know of all the people in the Congress, you more than anyone, want to make sure that these funds are properly used. So we welcome you here this morning.

Senator PELL. Thank you very much indeed, Senator Nunn, dear colleagues.

Chairman NUNN. Senator Pell, we swear in all of the witnesses before the Subcommittee. It is just the normal procedure here. Do you swear the testimony you will give before the Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Senator PELL. I do.

TESTIMONY OF HON. CLAIBORNE PELL, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator PELL. I think that I as much as anyone wants to see that this program has a good reputation with no cheating or abuse. I would point out in connection with the previous remarks that some of us, and I was one, opposed the idea of direct lending in part because we were concerned about the potential for abuse.

In addition, we must take into account that for 8 years the policy of a prior Administration was to wipe out the Department of Education. As a result the vigor and the determination that we would like to see in that Department was lacking. Unfortunately, I think that the effect of that misguided policy is still present.

Like your previous hearings on abuses in the student loan program, I share your thoughts about the importance of these hearings, which I hope will prove very successful. As you know, we took your recommendations to strengthen the loan program seriously. Most of those recommendations made their way into the reauthorization bill last year. There were also areas where we went beyond your recommendations and made the new law even tougher, as in the area of State licensing and review.

We have a record of our working together and I know that we will continue to do so, and I want to emphasize how glad I am that you are doing this, because no one wants to ensure that this program has a good reputation more than I do. Thus, I am glad you are focusing on the fraudulent activities of these New York schools in which, I think, exists the concentration of malfeasance.

As you begin, I believe it is crucial to place these hearings in their proper context. The Pell Grant program is at the base of all Federal student aid programs. Since it began over 20 years ago, there have been more than 55 million awards, totally $64 billion in Pell Grants to help pay for postsecondary education. I would just repeat, 55 million separate awards going to young Americans and sometimes to older Americans seeking more education. Of this amount, I understand that less than one-half of 1 percent is in question. That is the same proportion of population as my State of Rhode Island is to the United States as a whole—half of 1 percent.

Chairman NUNN. Senator Pell, we are not sure of that number. I would like to get your analysis of where that comes from because the more we get into it, the more we do not know how much is involved here.

Senator PELL. I will submit something for the record on that. Last year, some 4.4 million students received Pell grants. The maximum award was $2,300; the average award was $1,400. Over the years, the Pell Grant program has literally changed people's lives. I urge your indulgence while I read into the record a letter from Mrs. Terry Maniker in Anchorage, Alaska. Her story is similar to so many others—that is why I am reading it. It tells the story.

> I should have written this letter a long time ago. I am writing because of the abuses to the Pell grants.
>
> Almost 15 years ago I divorced my abusive husband. I had no money, no high school diploma, did not know how to drive a vehicle. No skills. No education. And a nursing infant.
>
> To say I was desperate is an understatement.
>
> Today I am a very successful attorney, remarried, with homes in California and Alaska. The Pell Grant program, which you initiated in Congress,

> made my current lifestyle possible. I have never forgotten the role that the Pell grant I received played in my life. I attended the University of Wisconsin and graduated Phi Beta Kappa with two majors and two minors. Your grant, and the four jobs I worked simultaneously, made it possible for me to stay off welfare and become a productive, contributing member of society.
>
> I donate approximately $10,000.00 worth of free legal services every year working with prison inmates and community groups. I was a State prosecutor and now own my private practice.
>
> You are remembered in my prayers. Sir, the Pell grants do work.
>
> With deepest personal and professional respect, Attorney Terry Maniker (Mrs. David Tucker).

I asked your indulgence to read Ms. Maniker's letter into the record because it tells such a story in itself. There are thousands more stories like that one. It is important, therefore, that these hearings improve and strengthen this program and not tear it down, so that we can continue to help people like Terry Maniker.

But what have we already done to curb abuse? In the early 1980s, we focused on efforts to recover money from those who did not repay their loans. We required that loan defaulters be reported to credit agencies. Today, failure to repay their loans means defaulted borrowers cannot get a credit card or borrow money to buy a car. And if a person does not have a credit card and cannot get one, it is unlikely that he has the money to repay the loan. Thus, this is a self-enforcing element.

Second, we also put into place and made permanent, the requirement that the tax refunds of defaulters be withheld. This provision caused a storm of protest from deadbeats who had not repaid their loans. It has also resulted in the recovery of an estimated $2 billion in defaulted loans.

And third, since 1986 we have had in a Federal law the requirement that students had to maintain a "C" average in order to be eligible for Federal aid. The student also must be working toward a degree or certificate, and not just taking a course because of personal interest.

Fourth, in 1990, after several attempts, we enacted important default prevention legislation. This year schools with default rates above 25 percent for the past 3 years will be dropped from the program. Personally, I would like to see the maximum default rate set at 10 percent or 15 percent, but we are not able to enact so tight a standard. In this regard, we are torn because there are those who say that historically black colleges should not have to conform to this requirement. In this, I think, they probably should conform to it.

Fifth, when we re-authorized the Higher Education Act last year, we enacted sweeping changes in the process of accreditation, Federal eligibility and certification, and State licensing. Schools with high default rates; low completion and placement rates; no tuition refund policies; promise an education they do not deliver; and that have shady finances and business practices should be—and are being—kicked out of the program. But whatever we do and whatever we require, the Department must be diligent in its enforcement of the law.

At the default hearings the Education Subcommittee held in 1987, we found that annual institutional program reviews by the Department of Education had dropped by two-thirds, from 1,200 a year to 400. In other words, the policeman had been taken off the beat. Today, the Department of Education, under the able leadership of Secretary Riley, is intensifying the efforts begun under Secretary Alexander to reverse the downward spiral in program review and administration.

Secretary Riley clearly understands that public confidence in student aid programs depends upon its confidence in the Department's ability to administer those programs, root out abuse, and punish those who would cheat or defraud the Government. And we must also remember that the Department, in spite of those of us who oppose the idea of direct student loans, will have to carry that load of administration as well in the coming period

Mr. Chairman, as I said in the beginning, I am glad of these hearings. I welcome these hearings and I stand ready to continue working with you to ensure that our student aid programs are sound. In this regard, we face a twin objective: one, to make sure that students who receive aid are deserving of that aid and take their responsibility seriously; and two, to make equally sure that the schools who benefit from Federal aid are on the up-and-up and provide a quality education.

My one hope and prayer is that, as they say, we do not throw out the baby with the bath water.

PREPARED STATEMENT OF SENATOR PELL

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to appear before you today. I applaud your continued concern over abuses in federal student aid programs and I stand ready to work with you to develop any necessary changes to current law.

Let me make clear from the outset that I consider these hearings very important. Like your previous hearings on abuses in the student loan program, I anticipate that your work on Pell Grants will produce very helpful information to help us strengthen that program.

Our subcommittees have worked closely together in the past. We took your recommendations to strengthen the loan program very seriously. Most of those recommendations made their way into our reauthorization bill last year. There were also areas where we went beyond your recommendations, and made the new law even tougher.

We have a record of working together and forging a partnership to strengthen our student aid programs, and I know that we will continue to do so.

I also believe it is critical to place these hearings in their proper context. The Pell Grant Program is the foundation of all federal student aid programs. Since it began over twenty years ago, there have been almost 56 million awards totaling $64 billion in Pell Grants to help pay for postsecondary education. Of this amount, I understand that one-half of one percent is in question.

Last year, some 4.4 million students received Pell Grants. The maximum award was $2,300; the average award was $1,452.

Over the years, the Pell Grant program has literally changed people's lives. The letter I have with me is one such example. It comes from Ms. Terry Maniker who, prompted by early press reports of these hearings, wrote me about the difference that a Pell Grant made in her life. A young mother, in an abusive relationship, she used her Pell Grant to complete her education and build a new life. Today she is happily remarried and living in Anchorage, Alaska, where she has her own law practice. A former prosecutor, she now donates $10,000 worth of legal time each year to helping prison inmates and community groups.

There are thousands of stories just like the one I have cited. It is important, therefore, that we use these hearings not to tear the program down, but to build it so that it will continue to help people like Terry Maniker.

A decade ago the average student aid package was 75% grants and 25% loans. Today it is almost the opposite. The result is that more students must borrow more money to pay for a college education. It is not unusual for a student to complete undergraduate work some $25,000 to $30,000 in debt. A student who completes medical school is often $80,000 to $100,000 in debt.

Let us make no mistake—saddling students with such significant debt has very severe, negative consequences. One of these is higher default rates, a terrible problem we have been wresting with for more, than a decade.

In the early 1980s, we focused on efforts to recover money from those who did not repay their loans. We required that loan defaulters be reported to credit agencies so that failure to repay their loans meant they could not get a credit card or borrow money to buy a car.

We also put into place and made permanent the requirement that the tax refunds of defaulters be withheld. This provision caused a storm of protest from deadbeats who had not repaid their loans. It has also resulted in the recovery of an estimated $2 billion in defaulted loans.

Since 1986 we have had in a federal law the requirement that only students who maintained at least a "C" average or its equivalent be permitted to continue receiving federal student aid. We also require that the student must be working towards a degree or certificate, and not just taking a course because of personal interest.

In 1987, in response to growing student default rates, the Senate adopted an amendment to cut off school participation in the loan program if the institution had a default rate in excess of 25%. After passing the Senate several times, the legislation was finally enacted three years ago. This year, schools with default rates above 25% for the past three years will be dropped from the program.

But whatever we do and whatever we require, the Department must be diligent in its enforcement of the law. At the default hearings the Education Subcommittee held in 1987, we found that annual institutional program reviews by the Department of Education had dropped by 75%, from 1200 a year to 400. In other words, the policeman had been taken off the beat. And I believe we all know what happens when that occurs.

Following those hearings, we developed even more comprehensive legislation to curb default problems. With the cooperation of former Secretaries Cavazos and Alexander, many of these reforms were implemented through federal regulations. The problem, however, remained that the Department had so severely cut back personnel that unless a problem bubbled to the surface, it often went unnoticed and uncovered.

When we reauthorized the Higher Education Act last year, we had the benefit not only of your hearings but also of a series of our own. As a result, we enacted numerous program reforms that are just now being implemented. Included in the new law are provisions that:

—require that short-term programs maintain at least a 70 percent completion and a 70 percent placement rate to participate in federal student aid programs;
—ban from student aid programs for-profit schools that derive more than 85 percent of their total revenues from such programs;
—require that schools have in effect a fair and equitable pro rata refund policy; and
—bar schools from using paid recruiters to attract students.

The 1992 amendments also strengthen the three legs of the "triad," which consists of state oversight and licensing, accreditation by a separate and independent accrediting body, and institutional eligibility and certification by the Department of Education.

The law now contains a list of "triggers," and a school that trips any one of these "triggers" must undergo rigorous state review. To assist states in performing these mandated reviews, we provided $5 million last year and an additional $21 million for this fiscal year. Under the 1993 budget bill, states that fail to take this mandate seriously will end up owing the federal government a share of the default costs for schools that exceed a 20% cohort default rate. I am advised that some of the schools that you are investigating would indeed "trigger" such a review under the new law. Still others would be identified as a result of the mandatory re-certification review required by the 1992 Amendments.

I am very pleased that today, the Department of Education, under the exceptionally able leadership of Secretary Riley, is intensifying the effort begun under Secretary Alexander to reverse the downward spiral in program review and administration. Secretary Riley clearly understands that public confidence in our student aid programs depends, in large measure, upon their confidence in the Department's ability to administer those programs, to root out abuse, and to punish those who would cheat or defraud the government.

Mr. Chairman, as I said at the beginning, I welcome these hearings and stand ready to continuing to work with you to see that all of our student aid programs are sound. In this regard, we face a twin objective: one to make sure that students who receive aid are deserving of that aid and take their responsibilities seriously, and two to make equally sure that the schools who benefit from federal aid are on the up-and-up and provide a quality education.

I thank you for the hearings, and the opportunity to testify. With your permission, I ask that Ms. Maniker's letter be made a part of the hearing record.

TERRY MANIKER,
ANCHORAGE, ALASKA 99516,
August 12, 1993.

HON. CLAIBORNE PELL (D–RI),
United States Senate, Washington, D.C. 20510.

DEAR SIR: I should have written this letter a long time ago. I am writing because of the abuses to the Pelt grants.

Almost 15 years ago I divorced my abusive husband. I had no money, no high school diploma, did not know how to drive a vehicle. No skills. No education. And a nursing infant.

To say I was desperate is an understatement.

Today I am a very successful attorney, remarried, with homes in California and Alaska. THE PELL GRANT PROGRAM, WHICH YOU INITIATED IN CONGRESS, MADE MY CURRENT LIFESTYLE POSSIBLE. I have *never* forgotten the role that the Pelt grant I received played in my life. I attended the University of Wisconsin and graduated Phi Beta Kappa with two majors and two minors. Your grant, and the four jobs I worked simultaneously, made it possible for me to stay OFF of welfare and become a productive, contributing member of society.

I donate approximately $10,000.00 worth of free legal services every year working with prison inmates and community groups. I was a state prosecutor and now own my private practice.

Despite the terrible Pelt grant abuses that I now hear about on the radio and television, I am the recipient of a Pelt grant that changed my life and the hundreds of people I am able to help because of that grant.

You are remembered in my prayers.

Sir, the Pelt grants do work.

With deepest personal and professional respect,

ATTORNEY TERRY MANIKER,
(Mrs. David Tucker).

PREPARED STATEMENT OF SENATOR KENNEDY

I commend Senator Nunn and the Permanent Subcommittee on Investigations for their continuing attention to problems of fraud and abuse in federal student aid programs. The Pell Grant Program is an important source of financial aid for the country's neediest students. Many low-income students would not be able to attend college, university, or a trade school without the benefit of Pell awards. It is vital, particularly in this period of rising college costs, to protect the program from abuse so that deserving students continue to have access to higher education.

This week's hearings make clear that some unscrupulous individuals and institutions are abusing the system for their own private gain, and at the expense of students and taxpayers. Similar hearings on abuses in the programs were held by the Education Subcommittee of the Labor Committee in 1987 and the Permanent Subcommittee on Investigations in 1990. These earlier hearings laid the groundwork for a series of "integrity" measures enacted into law in the Higher Education Amendments of 1992, including stricter accreditation standards, tighter criteria for eligibility and certification, and stronger oversight by state agencies.

The Department of Education is in the process of implementing the improvements mandated in the 1992 legislation, and the Clinton Administration has made clear its commitment to enforcing these reforms. Unfortunately, the schools that are the focus of this week's hearings entered the Pell program long before these safeguards were in place.

Without question, Pell Grants, like other federal student aid programs, have suffered from dishonest participants, poor management, and inadequate gatekeeping. We must not permit these problems, however, to obscure the vital role of Pell Grants in making higher education accessible to low-income students. Since 1972, over 55 million grants, have been awarded totalling over $64 billion. Today, more than 4 million students, or almost 25 percent of all students attending postsecondary institutions, are receiving such grants. We must do all we can to see that this highly successful program remains strong for the future.

PREPARED STATEMENT OF SENATOR DORGAN

Thank you, Mr. Chairman. I want to commend Chairman Nunn for his leadership, and the tireless work of our fine Subcommittee staff, in rooting out the serious fraud and abuse in federal student-aid grant programs.

Pell grants, appropriately named in honor of our distinguished colleague from Rhode Island, Senator Claiborne Pell, are meant to provide educational opportunities for the most needy, qualified individuals. Many graduates of this program literally owe their livelihood and their success to a Pell grant. Pell grants made it possible for them to get an education, learn a trade, and become productive, taxpaying citizens.

But there is a seamy side to this story. As we saw in the federally guaranteed student *loan* program, there are plenty of unscrupulous con artists out there ready to pounce on the fistfuls of money they can make—relatively easily, it seems from our Subcommittee's investigation so far—from this $6.1 billion-a-year program. The Subcommittee already has found "paper" institutions whose sole purpose, apparently, is to rake in money from federal student-aid grants. The only "education" they provide is a lesson in how to scam the taxpayers.

As a member of the other body, I chaired a Democratic Task Force on Government Waste. Our report cited fraud and abuse in federal student loan programs as one of the most glaring examples of government waste. We recommended legislation to fix the program and tighten loopholes that practically cried out for abuse. Congress took action on the loan programs thanks in part to the efforts of the distinguished Chairman of this Subcommittee, whose investigations helped expose the fraud, abuse, and mismanagement.

The effort to reform the guaranteed student loan program was good education and training for this effort to clean up the major student-aid grant program. I'm encouraged by the positive steps taken by the new Secretary of Education, Richard Riley. We need to strengthen his ability to cut off schools that abuse the system. We need to look at the qualification criteria for both schools and individuals to ensure that schools provide, and students receive, *real* education and training for the money that taxpayers are spending. We need better tools to identify fraud, especially the type that permeates an entire institution set up solely to bilk the taxpayers.

Education is one of the best investments that we can make in the future of our country. But for every dollar paid to the scam artists for a fictitious "education," some deserving student will suffer. Pell grants currently are funded at less than 65 percent of the authorized level for each student, because the federal government just can't afford to provide the maximum amount to needy students. We simply cannot stand for the fraud and abuse we see in this program—while deserving students suffer and American taxpayers foot the bill.

I'm not very thrilled that we have discovered glaring and outrageous abuse at institutions that claim also to teach religious values. Like most Americans, I'm frankly uncomfortable at government investigations of religious affiliated institutions. But we have to keep in mind that these institutions *take* taxpayers money—and they have to play by the rules.

I hope that, when officials of these schools appear before us tomorrow, they will offer explanations for the actions that General Accounting Office and Subcommittee investigators will describe today. I'm pleased, Mr. Chairman, that you have ensured that they will have an opportunity to respond to the allegations documented by GAO and our staff.

I look forward to hearing the testimony today and tomorrow and working with you to expose and eliminate the deplorable waste, fraud, and abuse in this program.

PREPARED STATEMENT OF SENATOR ROTH

Thank you, Mr. Chairman. I want to commend you for your longstanding interest and continued involvement in the important area of student financial aid. I recall the hearings you presided over in 1975 when this Subcommittee first examined the student loan program. Unfortunately, as we discovered in subsequent hearings, the problems we found in the student loan program in 1975 still exist today.

Today's hearing will focus on a different part of our Federal student aid program—the Pell grant program. Although the program is different, the problems look very much the same.

We established the Pell grant program as the cornerstone of our Federal student aid program. Pell grants enable students from low income families to pursue their dream of a college education. Pell grants are the seed money for our Nation's future; money invested in our most important natural resource—our Nation's young people.

At no time in our Nation's history has this issue been more important. We cannot compete successfully in today's global economy unless we provide our young people with the necessary education and training. Pell grants are the first step by which many young people start along a path that would otherwise not be available to them.

Just as we saw in our investigation of the student loan program, we have heard testimony regarding individuals who, under the guise of educators, prey upon these student financial aid programs and profit at the taxpayers' expense. And again, the Department of Education appears unable to stem the tide of Federal money flowing to apparently unqualified institutions and students. I understand that, just this week, the Department has finally taken action to terminate some of these unqualified institutions from the Pell Grant program. I hope this long overdue action represents a first step in a continuing policy of vigilant oversight of these important programs.

It has been said of our educational system that we are a Nation at risk. What we are risking is our future. For our children's future and for our country's future, we cannot allow waste, fraud and abuse in our student aid programs to squander the vital opportunities these programs present. This is especially important at a time when shortfalls in the Pell grant program are limiting awards.

We cannot wait any longer to address these problems. The future is *now*—as it is, we have ignored these problems for too long and, as history tells us, we have been forced to repeat them. The time has come for Congress to work with the Department of Education to ensure that program benefits are provided with effective oversight, efficient management and integrated systems.

Again, Mr. Chairman, I believe I speak for my colleagues and for the American people in commending you for your leadership in having the Subcommittee revisit this obviously still troubled area. I applaud you and your staff for the outstanding work you have done in this important area. I look forward to working with you in the future, as we have in the past, to develop solutions to these problems. I look forward to today's testimony.

PREPARED STATEMENT OF SENATOR SASSER

Over the years, this Subcommittee has been among the Senate's most competent and tenacious crusaders against the wasteful use of taxpayer resources. I applaud the efforts of Chairman Nunn to continue in this tradition.

We are here to examine what appear to be improper exploitations of the Pell Grant Program.

Pell Grants, named for our distinguished colleague from Rhode Island, Senator Claiborne Pell, allow students who can demonstrate financial need to obtain an education which might be unavailable otherwise.

It is precisely because this program is so important, that we must zealously guard against misuse of Pell Grant dollars.

Now, more than ever, we live in a world of limited Federal resources. This is especially true with Federal educational loans and grants.

Every Pell Grant the Federal Government gives out unnecessarily or improperly represents a lost opportunity. Every improper payment represents a deserving student who might have lost a chance to go to college or obtain vocational or technical training.

This investigation, by attempting to conserve Pell Grant dollars, aspires to allow greater numbers of deserving students seek higher education—or to continue the Pell Grant program at the same level of service, but at a far lower cost.

It is obvious that this is an unusual investigation in many ways.

The issues addressed here today represent a complex mix—not only of educational issues, or even of basic good government issues—but also of religion, ethnicity, immigration and social welfare.

Those accused of improperly obtaining Pell Grant funding include organizations which seek to assist Jewish immigrants from Russia and perhaps elsewhere.

Many of the Pell Grant recipients who are the subject of this investigation are poor and elderly, and they may truly need assistance as they seek to assimilate to the United States—and in some cases to obtain the basic necessities of life. Perhaps this Subcommittee will be able to steer the truly needy toward a more appropriate avenue of assistance.

I believe the Subcommittee has made a genuine, good faith effort to remain sensitive to these unusual circumstances. I urge us to continue to do so.

Now, having said that, we have before us a number of allegations of activity that would be improper under *any* circumstances—allegations such as:

- Pell Grant "brokers" who refer eligible students to various institutions simply to increase Pell Grant funding to that school.
- Fabrication of employment information and other information to allow a student to claim eligibility falsely.
- Pell Grant students who have no recollection of attending classes for which the Federal Government paid hundreds, or even thousands, of dollars.
- Students who receive Pell Grants, not primarily for the facilitation of an education, but for personal or other use.
- Schools of questionable eligibility for the Pell Grant program, which stay afloat thanks to thousands, and even millions, of Pell Grant dollars.

These activities, clearly, are an abuse of the Pell Grant program.

Annual funding for the Pell Grant program has skyrocketed—from $48 million in 1973 to over $6 *billion* currently.

Frankly, I wonder how much of this $6 billion is attributable to abuses of the program under the inattentive watch of previous Administrations, for whom education was not a top priority.

I believe this investigation can help restore credibility to the Pell Grant program, and again I commend the Chairman for his leadership.

Chairman NUNN. Thank you very much, Senator Pell. We appreciate you being with us this morning.

Chairman NUNN. Our second witness this morning is Mr. Richard C. Stiener, the Director of the Office of Special Investigations of the U.S. General Accounting Office. In August of last year, the OSI brought these allegations of abuse to the Subcommittee's attention and have since been investigating these allegations at the Subcommittee's request.

Mr. Stiener is joined by Mr. Clarence Crawford, GAO's Associate Director for Education and Employment Issues; Mr. Donald Wheeler, OSI's Deputy Director; and Mr. Robert Hast, OSI's Assistant Director in New York. Mr. Stiener, I understand you have to testify before another committee in the House this morning. If timing gets too tight, we will allow you to leave. You will have to let us know when that comes. And I know you are going to have your people that would stay behind, so that if we are still asking questions, we will be able to complete them.

I want to thank the GAO for your work on this investigation which has been extremely helpful. I know that you are not completed yet, but a lot of work has been done and I appreciate and I think all of our Subcommittee appreciates your support. We look forward to having the results of your inquiry that you will be able to share with us this morning.

I will ask all who are going to testify or answer questions to please stand and take the oath.

Do you swear the testimony you will give for the Subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. STIENER. I do.

Mr. CRAWFORD. I do.

Mr. WHEELER. I do.

Mr. HAST. I do.

TESTIMONY OF RICHARD C. STIENER,[1] DIRECTOR, OFFICE OF SPECIAL INVESTIGATIONS, U.S. GENERAL ACCOUNTING OFFICE; ACCOMPANIED BY CLARENCE CRAWFORD, DIRECTOR, EDUCATION AND EMPLOYMENT ISSUES; DONALD WHEELER, DEPUTY DIRECTOR, OFFICE OF SPECIAL INVESTIGATIONS; AND ROBERT HAST, ASSISTANT DIRECTOR, OFFICE OF SPECIAL INVESTIGATIONS, NEW YORK

Mr. STIENER. Thank you, Mr. Chairman. You mentioned Mr. Crawford who is with me today, of course, and who is responsible for our education program area. Also accompanying me is Don Wheeler who is my Deputy for Investigations within our Washington office and who was responsible for the investigation from our perspective in Washington. And also Bob Hast who is our Assistant Director in New York and who is responsible for the New York investigation. I would like to enter my statement for the record, sir, and my comments today will be a summary of that statement.

Chairman NUNN. Without objection, your entire statement will be part of the record.

Mr. STIENER. Mr. Chairman and members of the Subcommittee, we are pleased to be here today to participate in this hearing concerning the Subcommittee's continuing oversight of the Department of Education's Student Financial Assistance program. At your request, we investigated to determine if fraudulent activity and serious abuses have occurred within the Federal Pell Grant program, which assists low-income undergraduate students in financing their postsecondary education.

In brief, as recently as June 1993, we testified on participants' abuses of other student aid programs—the guaranteed student loan program. Those abuses included false student-loan applications, schools misrepresenting their academic capabilities, lenders making loans to fictitious students, and ineligible students receiving loans. We found these same basic abuses in our ongoing investigation of the Pell Grant program involving certain yeshivas in the New York City metropolitan area.

The Department of Education identified to us 37 of over 85 yeshivas or yeshiva-operated institutions in the New York City area. The Department was concerned that the 37 were engaging in potentially abusive misconduct involving the Pell Grant program. In all 23 institutions investigated thus far,[2] we have found some evidence of the use of false documents to support both the students' Pell Grant applications and the schools' eligibility to participate in the Pell Grant program. The yeshivas submitted documentation to the Department of Education for ghost students; that is, students who never applied for Pell Grants or individuals who never enrolled or attended the yeshivas that used their names. Also, for ineligible high school students; individuals whose biographical information was sold to yeshivas by brokers for use in obtaining Pell Grants; and for misrepresentation of their academic programs and other eligibility criteria.

The false documents included false Pell Grant applications; supporting documentation for the applications, such as high school diplomas and income verification; academic transcripts and other documentation maintained in students' files. Also involved were false documents submitted to the Department of Education for institutional eligibility. At least six of the 23 schools used brokers to obtain legitimate information from actual individuals and then used the information to obtain Pell Grants from the Department of Education.

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[1] The prepared statement of Mr. Stiener appears on page 199.
[2] See Exhibit No. 69 on page 301.

Between 1983 and 1993, the 23 institutions that we investigated obtained over $330 million in Pell Grant funds. They obtained about 60 percent of this; that is, over $197 million, within the last 3 years. And I believe our chart[1] reflects that 10-year period, including the increase of the last 3 years here. Our case study concerning one yeshiva demonstrates most of the situations of Pell Grant falsifications and abuse that we found. The yeshiva used ghost students, ineligible high school students, false high school diplomas and admissions applications, and apparent mail drops to home addresses on Pell applications.

It also submitted unsupported documentation concerning its financial status to obtain Pell Grant program eligibility. In 1984 and 1987, the school submitted an unaudited financial statement for a different institution to continue its eligibility to process and award Pell Grants. The Department of Education accepted those statements and, on their basis, certified the school as financially responsible to continue in the program. Furthermore, on the basis of a 1988 financial statement that reflected a negative cash position and an over $80,000 liability to the Department itself, the Department again determined the seminary to be financially responsible and continued its eligibility for the Pell Grant program.

We also found evidence of ghost students at some of the schools we investigated. Based upon recipient interviews and examination of school records, some yeshivas received Pell Grant awards for individuals who themselves never applied for the grants or never enrolled in or attended the yeshivas that used their names. These yeshivas used individuals' names and biographical information to obtain Pell Grants, supported grant applications with false documentation, and used mail drops as home addresses to receive the applications.

An elderly Russian couple we interviewed stated that they had attended two yeshivas in the United States. Yet, three other yeshivas had obtained Pell Grants for them. According to their statements to us, files from the two yeshivas that we examined contained false academic transcripts and other documentation supporting the Pell applications. Three other yeshivas received Pell Grants in the name of a Russian woman who told us that she had attended only one yeshiva. We reviewed student files from one of three yeshivas and found false transcripts, financial aid records, and other documents.

Finally, one Pell recipient, who told us that she never attended any of four yeshivas that had obtained Pell Grants in her name, is a daily outpatient at a mental health clinic. She has been under long-term care and her medical history reflects only a high school education and no postsecondary education.

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[1] See chart on page 200.

On the basis of the interviewed recipients' statements, we determined that materials from six yeshivas included false financial aid records, transcripts, admissions applications, and other documents. We submitted certain documents to the Forensic Services Division laboratory of the United States Secret Service. They included Pell applications and other supporting documents from student files with handwriting exemplars from three recipients. The laboratory concluded that the signatures of 14 of the 30 analyzed documents were not those of the recipients.[1]

Some yeshivas used mail drops or locations other than actual home addresses to receive the Pell Grant applications of ghost students. We identified 63 Pell Grant recipients for five yeshivas who listed the home address on their applications as that of an all-boys elementary school, even though many of the Pell recipients at this address were women and supposedly of postsecondary age. Another yeshiva rented a post office box that was then listed as the home address for over 370 Pell Grant recipients at that school.

Although high school students are not eligible to receive Pell Grants, four yeshivas certified postsecondary yeshiva attendance by Pell applicants who were high school students. For example, one yeshiva that we examined had at least 30 high school students in its student body of 462 Pell applicants.

The Department of Education determined that some of the Pell recipients had also been certified to the local school district as being high school students eligible to ride on district school buses and receive district textbooks and library privileges. For example, the administrator for a yeshiva who was also an official for the high school located at the yeshiva, submitted both high school diplomas and yeshiva admissions applications to the Department of Education during a Pell Grant program review. As high school administrator and reviewing official, he had signed school lunch program applications, letters to the welfare department, and Social Service forms attesting that some of the same students were enrolled in high school during the same time periods when they were receiving Pell Grants as high school graduates.

We determined that brokers—individuals who for a commission or fee, recruit student financial aid applicants and applicant information—are involved in defrauding the Pell Grant program. One brokers' student files that we examined contained false employment and income verification documents that were the basis for Pell Grant awards. Another broker offered money for information to be used on applications for ghost students. A third broker offered payments of money to induce individuals to apply for Pell Grants and enroll in ineligible programs.

We identified a second broker in a closed-case file from a Federal law enforcement agency. In consensually-monitored conversations, the broker offered an informant several hundred dollars for Pell Grant applications filled out for ghost students. Department of Education records disclosed that a Pell Grant was later awarded in the name of an individual whose biographical information had been provided to the broker by the informant. A yeshiva received Pell Grants to offset the recipient's alleged academic costs and maintained an academic record for the purported student. The record listed classes, grades, and other enrollment information. However, when we interviewed the purported student, she told us that she had never attended or heard of the school and had never applied for a Pell Grant.

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[1] Exhibit No. 6 retained in Committee files.

We reviewed approximately 50 applications for Pell Grants for students of a 4-year private college. We learned that the college had entered into an agreement with eight yeshivas to provide a 3-year Associate of Arts degree under the auspices of the college. These eight off-site schools maintained, in total, 44 locations in New York City to provide instruction to a largely immigrant population.

According to the college's course catalog, a program for an Associate of Arts degree requires 64 credits with a minimum of 48 credits in liberal arts courses. Further, the program syllabi provided by the yeshivas to the college indicated that eight English courses were to be taken in the first two semesters. These were to be followed by other courses, including philosophy, political science, art history, human biology, and music. However, according to the seven students we interviewed who were participating in the college's off-site programs, they were primarily provided with English classes and a small complement of Jewish history and culture.

We also determined that 14 Pell recipients from the college's off-site programs had received Pell Grants in their names for at least three other yeshivas. However, when we interviewed 4 of these 14 students, they stated that they had not attended the college's yeshiva-operated off-site programs. Yet, the college's off-site programs made them ghost students by maintaining student files for them that included academic transcripts and financial aid applications.

Schools participating in the Pell Grant program must sign an agreement acknowledging that they meet certain criteria, including academic accreditation and financial certification. However, according to our September 1991 report on student financial aid, the Department has failed to adequately screen or review schools for participation eligibility. Nothing we have seen in our current investigation would indicate that this has changed.

One of the first lines of defense in dealing with problems in schools participating in the Pell Grant program, or any student aid program, is to have strong gatekeeping procedures for ensuring that only schools that are able to provide the education they advertise can participate, and can continue to participate, in the programs. Such procedures include licensing, accreditation, eligibility, and certification requirements for the schools.

Some of these procedures were included in the 1992 Amendments of the Higher Education Act, although they were not in effect when the Department approved the schools that were included in our investigation. For example, the amendments provide that an institution will lose its eligibility if more than 85 percent of its revenues come from Federal student aid sources, such as Pell Grants and guaranteed student loans. Further, provisions in the 1992 amendments call for strengthening relationships between the Department, States, and accrediting organizations. Part H of the Higher Education Act, among other things, defines a minimum set of review standards that accrediting organizations must follow. The Department and each State are to enter into an agreement to conduct or coordinate the review of institutions in the State that are, or want to be, eligible to participate in Federal student aid programs.

These regular reviews are a step toward eliminating or limiting the possibility that the abuse of practices we found in our investigation will continue or occur at all. Indeed, we believe the 1992 amendments are a good start for strengthening the Department's approval of schools. However, the Department must begin to demonstrate much needed leadership in marshaling its own resources and enlisting the support of the States to protect students and the Federal investment in student financial assistance programs.

This concludes our prepared statement, Mr. Chairman. I'm available for questions.

Chairman NUNN. Thank you, Mr. Stiener. I know you are going to have to leave. I assume that the others are going to be able to remain and answer questions. You have approximately 50 minutes. Have you got that long?

Mr. STIENER. I have got about a half an hour, I think.

Chairman NUNN. I will ask the Senators to try to direct our questions to you and then, I assume, that Mr. Wheeler and Mr. Hast and Mr. Crawford will be able to remain.

Mr. STIENER. Oh yes.

Chairman NUNN. You mentioned on page—I am not sure, your pages are not numbered, but one of the pages of your testimony, I believe it is page 6. Yes, page 6, down at the bottom paragraph, "As high school administrator and reviewing official, he had signed school lunch program applications, letters to the welfare department, and Social Service forms attesting that some of the same students were enrolled in high school during the same time periods when they were receiving Pell Grants as high school students."

You did not put a name in here or a school. Do you have that?

Mr. STIENER. I believe we do, yes. Mr. Hast can furnish that name.

Chairman NUNN. Mr. Hast?

Mr. HAST. Yes, we do. It is Beth Rochel School in Monsey, New York, and it is Rabbi Rosenbaum's school.

Chairman NUNN. Did you interview him?

Mr. HAST. We attempted to depose him [1] and he——

Chairman NUNN. Did he cooperate?

Mr. HAST. He did not.

Chairman NUNN. Mr. Stiener, some people have asked, and I assume that perhaps this question will be asked again, why these particular orthodox schools are the subject of investigation? How did you first decide to undertake your inquiry with these particular schools?

Mr. STIENER. We are responsible within GAO for investigating and ferreting out fraud, waste, and abuse as examples of programmatic or systemic problems that demonstrate a need for change in the Government. Of course, we service the Congress this way and, directly, the Committees and we also support ongoing work of our divisions. We like to concentrate our efforts in the high risk areas identified by GAO. And one of those high risk areas is, of course, the student loan program. Our investigators in New York—in fact, the New York regional office—in the interest of identifying case specific examples, contacted the Department of Education in New York. In their review process, they had determined that these particular schools were problems or potential problems. So we concentrated our investigation in that area.

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[1] Exhibit No. 7 retained in Committee files.

We did not target, if your question is leading to that area, a particular school or a particular ethnic group. We did not know what we would find when we asked those questions. We had intended, in fact, to look at other schools in the New York metropolitan area and to extend our investigation to other metropolitan areas. Unfortunately, the obstacles that were placed in front of us during this investigation prevented us from pursuing those avenues. We had hoped to be able to testify on a number of various schools.

Chairman NUNN. Now when you mention obstacles, in their statement, we will hear it later this morning, our Subcommittee Staff describes the lack of cooperation they received during their investigation of several ultra-orthodox Jewish schools to wit, quoting from that Staff statement:

> Community religious leaders prohibited members of the community from talking with the Staff, effectively stifling all investigation. When we attempted to depose key officers, director and employees of the schools, all of these key personnel asserted their fifth amendment protection against self-incrimination.

Did the GAO encounter similar problems during the course of your investigation?

Mr. STIENER. Yes, sir. We would agree with that, especially specifically with the school administration people, directors of the schools. When we first started the investigation, however, from the student population, we were able to interview a number of students. However, as the investigation continued and word got out that we were conducting the investigation, we were not able to speak with the students. They did not wish to speak with us either.

Chairman NUNN. You did some interviewing of students; is that right? Last year you did interviews of several students in the Judaic Studies schools. They were conducted in the students' homes, as I understand it. Is this routine investigative procedure or is this something unusual?

Mr. STIENER. No, it is routine investigative procedure, sir. We try to interview——

Chairman NUNN. Could you describe those interviews and what you were attempting to do?

Mr. STIENER. Yes. I can let Mr. Wheeler comment on that.

Chairman NUNN. Mr. Wheeler, talk right into the mike, if you would. These mikes are sensitive, but you have to talk directly into them.

Mr. WHEELER. Mr. Chairman, not only are witness interviews routine, but they are crucial to any investigation and that was particularly so in this investigation. Very early on, based upon the information that we received from the Department of Education, it was apparent to us or we had a high level of suspicion, that the schools, the institutions themselves, were engaged in suspected impropriety. For that reason, we felt a need to interview students away from the institutions, in a situation that would afford them some comfort and avoid possibilities of improper influence.

Our initial efforts were met with success. The students willingly responded to our questions. We believe in most instances they were candid and truthful in what they told us. And what a number of students told us was that they were not aware that Pell Grants had been awarded in their names. In fact, the students in many instances, were not even aware of the schools in which they were purportedly enrolled. This information bolstered our initial suspicions concerning the schools, as well as our decision to interview students in their homes.

Chairman NUNN. So you were running into students that did not know that they had ever applied for a Pell Grant or that a Pell Grant had been made in their name; is that right?

Mr. WHEELER. Yes, Mr. Chairman.

Chairman NUNN. And they did not know that they were supposed to be enrolled in schools where they were actually purportedly enrolled?

Mr. WHEELER. A number of students that we interviewed were not even aware of the schools where they allegedly were in attendance.

Chairman NUNN. Did you interview many students in their homes?

Mr. WHEELER. Most of the students that we were successful in interviewing were interviewed in their homes. They met us very willingly and voluntarily responded to our questions.

Chairman NUNN. Do you call in advance for appointments like that or do you just knock on the door? How do you arrange those interviews?

Mr. WHEELER. Mr. Chairman, we do not provide advance notice. We do not do that because of our concerns of individuals getting together and structuring their answers. In fact, once the investigation became known both the schools and community leadership expressed concern. We ran into some instances in which it was apparent to us that responses were planned, rehearsed, and structured responses.

Chairman NUNN. When did that happen? For a while you say you got cooperation from the students and then what happened?

Mr. WHEELER. Once our interviews became known, the schools and attorneys representing community leaders contacted the Department of Education and complained and asked that the interviews stop. At that point, they were not aware of the Subcommittee's investigation and our assistance to the Subcommittee in that effort. The Department of Education contacted Subcommittee Staff concerning the request and as a result, the response back to the attorneys representing the schools was that the interviews would continue.

Chairman NUNN. Did you ever attempt to have the schools arrange for interviews of the students at the school? Did you ask the schools to cooperate?

Mr. WHEELER. Yes, Mr. Chairman, we did. As a result of the concern of school and community leaders, we entered into an arrangement with their attorneys in which we would schedule the interviews through the attorneys. We selected an initial five students to be interviewed in our New York City office. Of the five, only two showed up. At the conclusion of the interviews, we asked the students to provide us a written statement of what they had told us. They asked to do this at home and assured us that they would send us the affidavits. We have yet to receive them.

The attorneys told us that they were unable to locate the other three students. Subsequently, our investigation determined that at least one of these three students is a daily outpatient in a mental health clinic with a high school education who was unaware that Pell Grants had been awarded in her name at four yeshivas.

Chairman NUNN. Regarding Beth Rochel Seminary's participation in the Pell Grant program, are you familiar with that?

Mr. WHEELER. Yes, Mr. Chairman.

Chairman NUNN. Did you find evidence that the Department of Education certification and eligibility determinations for this school's participation were inadequate? What did you find in that regard?

Mr. WHEELER. Mr. Chairman, I would like to turn that over to Mr. Hast. I think he would be helpful.

Mr. HAST. We discovered that the Department of Education had accepted and relied upon a financial statement from the Beth Rochel School for Girls, not the seminary. The Beth Rochel School for Girls is an elementary and high school co-located at the site that the seminary occupies. The statement for the school for girls had the normal expenses that you would expect with an elementary and high school—books, transportation, food, things that you would not consider to be associated with a home study or mentoring program.

Chairman NUNN. So the Department of Education was relying on a financial statement of a school that was not the school really applying?

Mr. HAST. Yes. And then in 1988, they demanded an audited statement from an accountant. When that audited statement came, it was for the Beth Rochel Seminary. They then compared the seminary statement to the school for girls' statement which was substantially different and still found them qualified and allowed them to be recertified into the program and they drew down over $3 million worth of Pell funds before being removed from the program again.

Chairman NUNN. Mr. Crawford, the Higher Education Act contains provisions for terminating the participation in the student loan program of schools which have a high default rate. Does this affect their Pell Grant eligibility if they are cut off because of high default rate on student loans?

Mr. CRAWFORD. Not under statute, Mr. Chairman. Even with the statute as it relates to the loan programs, the Secretary has discretion on a case-by-case basis to grant a waiver, so to speak. What the Department does have though is a set of regulations that allow the Secretary to not only remove them from Pell Grant but from other Title IV aid as well.

Chairman NUNN. Are those implemented by the Department of Education, those powers?

Mr. CRAWFORD. I am not sure, Mr. Chairman. I know that is what they are working towards doing.

Chairman NUNN. You do not know of cases where they have done that then?

Mr. CRAWFORD. Not that I am aware of, no, sir.

Chairman NUNN. I believe you are the Director of GAO's Education Evaluation Office; is that right?

Mr. CRAWFORD. Yes, sir.

Chairman NUNN. Are you surprised at the findings of both this investigative group of GAO, as well as our Subcommittee?

Mr. CRAWFORD. Unfortunately, no, Mr. Chairman. I guess the thing that is surprising here is the extent of the alleged abuse and questionable activity. But the Inspector General's office has reported in the past—we would like to give this Subcommittee copies of that work, especially in the accrediting area, that was done a few years ago—on how the accrediting organizations were essentially accrediting anyone that showed up. The reaccreditations were pretty much pro forma. Those kinds of changes have been placed into the 1992 amendments, and hopefully will help to reduce those problems. But this is not surprising.

Chairman NUNN. In other words, the problems have been there for quite a while and you are not surprised by this?

Mr. CRAWFORD. That is correct, Mr. Chairman.

Chairman NUNN. How far along is the Department of Education in correcting these abuses both in the Pell Grant program and the student loan program?

Mr. CRAWFORD. The Department is working along in doing that. The last couple of years, the Department has been making progress in these areas. But a couple of important things to note. One, these are enormously complex problems. Two, the gatekeeping problems that were described here are also the same kinds of problems that are apparent when you look at the student loan program which Mr. Stiener mentioned is a high risk area for GAO.

So these are the kinds of thorny issues that the Department is going to have to work through. And these are the kinds of problems that would also be apparent in a direct lending program. So time spent working through the gatekeeping problems here will be beneficial, because it will affect the other programs as well.

Chairman NUNN. Do you think the Department is now prepared to be able to successfully implement a direct lending program?

Mr. CRAWFORD. I think the Department is beginning to build its resources and move in that direction. Has it turned the corner? No, sir, it has not. There is a lot to be done. These are enormously complex problems for the Department to have to wrestle with. It seems to be moving in the direction of hiring very capable senior people. But in addition to just the money, one of the key things the Department has to do is to actually demonstrate leadership in correcting some of these problems. Some of these things, the States have been moving toward and doing for some time, like outcomes—looking at outcome measures, surety bonds, and others.

Chairman NUNN. Senator Cohen.

Senator COHEN. I was just going to ask——

Chairman NUNN. Would somebody check and tell us—we have got six lights up there. Are we having a vote? Let Staff check. Senator Cohen, go ahead.

Senator COHEN. I was just going to ask you, Mr. Crawford, does leadership cost money?

Mr. CRAWFORD. No, I do not think so. I think that there are areas where the Department could benefit from increased resources. But I think the key ingredient—resources, improved technology merely provides you with an opportunity to do something. The leadership is what is needed to actually carry that out.

Senator COHEN. But the short answer to Senator Nunn's question is that the Department is not in a position at this time to supervise properly or manage properly the direct loan program?

Mr. CRAWFORD. The Department is building towards that.

Senator COHEN. As of this moment, they are not capable of doing that?

Mr. CRAWFORD. At this moment?

Senator COHEN. They are building toward it. They are moving in the right direction. However, as we move in the right direction, we are losing millions of dollars.

Mr. CRAWFORD. It would be hard for me to say. We are intending to monitor this very closely because of the concerns. If you will just allow me to elaborate just a minute, one of the things that the Department does have to its benefit is that in planning the pilot of the direct loan program, many of the steps that are necessary to carry out the phased implementation are the same kinds of things, so they have a running start. It is something that we are all going to have to watch very, very carefully, because there are a lot of dollars at stake. There are issues of access for students and the financial concerns for the Government.

Senator COHEN. Thank you. Mr. Chairman, I understand that when the Subcommittee tried to carry out its investigation, there were accusations that the Committee was prejudiced, or perhaps even GAO was prejudiced in its investigation, either by targeting these particular schools for investigation and/or accusation, or in the way in which the investigation was carried out. I would like to say for myself, I do not care what the affiliation is of the institution. As long as those institutions are receiving Federal dollars or taxpayer dollars, they are subject to this type of investigation and the charge of prejudice is not going to carry much weight with me, and I suspect not with other members of the Committee.

As long as it is clear that these institutions are not being singled out, we are going to continue the investigations into nonprofit institutions, proprietary trade schools, nonprofit 4-year universities and, the entire spectrum of the educational system. But no one, in any circumstance, is going to be in a position of claiming that somehow this is the result of a prejudicial attempt to in any way stigmatize their schools.

I was concerned, for example, that when the Committee Staff subpoenaed the records from four or five particular schools, one of the schools said it could not locate its records. It subsequently closed. Another school, upon having received the subpoena, had a mysterious fire. Officials said that they found no evidence of any large scale destruction of documents. This is the kind of behavior that is not going to be acceptable, as far as this member is concerned and, I suspect, not by most who serve on this Committee.

I was going to ask you, Mr. Stiener, when you started to interview the students, did you look at their financial condition, as well? In other words, would they have been students who would have been in a financial position to have qualified for a Pell Grant or had been in need of other financial assistance? Did you make any inquiry beyond whether or not they had, in fact, applied for aid?

Mr. STIENER. That would be more appropriately answered by Mr. Hast, sir.

Mr. HAST. We did not conduct a formal review of their finances, such as subpoenaing back records and so forth. Just by general observation, I would say the students that we interviewed for the most part would have been eligible. Although there were some that probably would not.

Senator COHEN. On page 9 of your statement, you found that high school students were receiving Pell Grants at four yeshivas. At one of them, there were 30 high school students receiving Pell Grants. How was this possible? High school students, as I understand it, are not eligible for Pell Grants. How was it possible that you had 30 high school students listed as receiving Pell Grants at one yeshiva?

Mr. HAST. All of the necessary applications and forms were filled out in order to obtain a Pell Grant at the school and sent to the Department of Education. During reviews by the Department of Education postsecondary review group in New York, they determined that some of these students that were receiving Pell Grants were also on busing lists for the county in New York that the school was in, stating that they were high school students for purposes of transportation, for purposes of using library services, and for the purpose of public schools providing school books.

We took that a step further and with the cooperation of the Department of Agriculture's school lunch program, determined that a number of these students were also listed by the school as receiving school lunches. And in fact, we accompanied the Department of Agriculture on its school lunch review, and some of the very students that were supposedly in a home-mentoring, home-study type program were there that day eating lunch in the school cafeteria listed as high school students. We then went to the——

Chairman NUNN. Senator Cohen, I hate to interrupt. We have got about 3 minutes left on a vote. So we better take about a 10-minute break and come back right at this point. Mr. Stiener, if you have to leave in the meantime, if you will leave your other people here, we will come back and ask them questions. Thank you.

[Recess.]

Chairman NUNN. Senator Cohen.

Senator COHEN. Thank you, Mr. Chairman. I just have a few more questions. I am not sure to whom I should properly address this question. Perhaps Mr. Crawford or Mr. Hast. What happened when your office spoke to the Department of Education about the case where there were 63 Pell Grant applicants listed, with an all boys' elementary school as the home address? Are you familiar with that one?

Mr. HAST. Yes, I am.

Senator COHEN. What was the response of the Department? How was this possible?

Mr. HAST. The Department postsecondary review people brought that to our attention from a computer run on addresses of Pell Grant students. We then went to the school in order to determine if it was a situation where people may be living there. We went to the school principal and he told us that he wanted to talk to his attorney and would get back to us. Being in the school, although we did not inspect the entire school, it was an operating elementary school, and did not appear to have any type of a residence capacity.

Senator COHEN. When the students found out that their names were being used without their knowledge, as far as being applicants for Pell Grants, did they, to your knowledge, contact the schools about the situation or did the schools contact them? What happened, as far as you know?

Mr. HAST. I do not have any direct knowledge of students contacting schools or schools contacting students. At the end of this portion of the investigation, it became obvious that some of the students knew we were coming and had been prepped with answers. The answers changed significantly towards the end of our investigation.

Senator COHEN. After they acquired their attorneys or obtained their attorneys, did they become more or less cooperative?

Mr. HAST. The only students that we ever spoke to with attorneys had attorneys obtained by the school. And we provided the names of the students to the school and the school then said that the attorney would come with the students for our interviews. The first time that happened, we had secured an interpreter. No one showed up. We then negotiated further and the second time, two out of five students came with an attorney at which time they were interviewed. However, they agreed to provide affidavits. We provided an affidavit to them for correction and that was many months ago, and those affidavits still have not been returned.

Senator COHEN. Just very briefly, I am not sure which witness made the reference—but the reference was made to brokers or legitimately contacting brokers, I am not sure exactly what the phraseology was. But tell me about how brokers are used in this particular case? Do brokers contact schools and say, I would like to work on your behalf to secure Pell Grant applications for students who would like to come here, or do the schools contact brokers who may or may not be interested in taking advantage of abusing the Pell Grant system?

How does that work, No. 1, and No. 2, what is your opinion about the propriety of using brokers to secure Pell Grant applications and grants?

Mr. HAST. I believe that in the latest Department of Education regulations, although I could not quote the cite, it is no longer legal for schools to use brokers in order to obtain students.

Senator COHEN. Is that by regulation or by statute?

Mr. CRAWFORD. I believe it is by statute, Senator Cohen.

Mr. HAST. But in the investigation that we conducted in the first case, the Immigration Department arrested and raided an immigration facilitator. In New York there are people that help the immigrants coming in to obtain all the necessary documentation and get into the various programs that they are eligible to participate in. This individual when he was raided, had a great deal of records seized. Part of those records showed that for almost everyone that he worked with, there was a Pell Grant file. The U.S. Attorney's office in the Southern District of New York, knowing about our investigation, asked us if we would be interested. We then talked to Immigration and obtained the Pell Grant type documents.

We went out then and interviewed many of the people whose names were in these files. Some of them did not know that they had received a Pell Grant. Others—while they knew they were going to a school—did not realize they were receiving Federal aid. Many of the documents in there were things such as letters from employers stating that the individual was employed and how much money that individual was making. When we went to those employers, they said that the letterhead was false; that the signature on the document was not theirs; and that in some cases the individuals never worked there and in other cases, that the amount of money that the document said they made was not correct. So basically many of the documents were false for obtaining Pell Grants.

We also found in the files of this broker, checks from one of the schools that we investigated for $250 for many of the individuals. When we interviewed the secretary of this broker,[1] she stated that she and the broker would sign the names of the employers on these employment letters and that she would make up the letterhead many times from business cards and that she would put in the information that the broker asked her to put in. She said the broker would then give her Pell applications in blank and a file from the Immigration individuals and she would then fill out the Pell Grants. Some of those were signed in blank; some of them were not signed, but were signed later. This individual was negotiating to cooperate when he fled the country. And he was negotiating to cooperate on Pell Grant fraud, saying he could give other brokers and other schools that were involved. He then fled.

Senator COHEN. Do you have an opinion as to whether or not this type of fraud and abuse is unique to either New York City, to the religious institutions who are under examination or investigation or is it more endemic? Do you surmise that this problem is Nationwide or is it confined to certain regions or to specific types of institutions or is it much bigger than what we see here on these charts?

Mr. HAST. I believe it is probably bigger than we see here, although we have not conducted sufficient investigation. But in going back to prior investigations, I think Nationwide, we had found that there were individuals that were going out and finding students and separate schools for a commission.

Senator COHEN. Do you have any idea of how many institutions have over 85 percent of their revenues coming from Federal sources?

Mr. HAST. No, I do not.

Senator COHEN. Was that any part of the investigation?

Mr. HAST. No, I do not have that information.

Senator COHEN. That is all I have, Mr. Chairman.

Chairman NUNN. Thank you, Senator Cohen. A couple of follow-up questions. You used the term yeshiva several times relating to these schools, Mr. Wheeler. Could you define that term? I want to make sure we use the term in the way you mean it and it is not interpreted in any other way .

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[1] See Exhibit No. 89 on page 453.

Mr. WHEELER. Yes, Mr. Chairman. We used the term yeshiva in this investigation because the 37 institutions identified to us refer to themselves as such. In terms of applying the term yeshiva for our purposes, it applies only to the 37 institutions that were identified to us. It does not at all apply to many other fine institutions of higher learning such as Yeshiva University.

In our report itself, we use the Random House College dictionary definition which states that a yeshiva is an orthodox Jewish school of higher instruction in Jewish learning. The schools that we described as yeshivas in this testimony fit this definition. Again, our term here applies only to the 37 identified to us and is not meant or intended to apply to any other institutions. There are many yeshivas that are well known and highly respected institutions of higher learning.

Chairman NUNN. Thank you for clarifying that, Mr. Wheeler. Mr. Hast, I believe when we were discussing the Beth Rochel Seminary that was the subject of your testimony you mentioned that there was an accountant who said that the financial records were not adequate. He was the accountant who had done them. Would you go into that again?

Mr. HAST. Yes. We interviewed the accountant that performed the certified audit of Beth Rochel that was requested by the Department. He told us that the statements that he prepared were qualified and that he spoke to a Department official and stated that all of the funds were commingled and that he would have to issue a qualified statement; that he was not able to develop an opening balance because of the fact of the commingling, and that he was not able to account for 153 some odd thousand dollars that was in the statement. Therefore, he was going to have to qualify the statement. He told us that anyone receiving that statement should have realized that it was valueless in determining the financial condition of that institution.

Chairman NUNN. Did he tell the Department of Education that? Did the accountant make it clear to the Department of Education that this statement that he himself had issued was of no value?

Mr. HAST. I do not know that he said it in those words, but he told us that he spoke to a Department of Education official and told him that it was a qualified statement and that the funds were commingled and he was not able to give what would be an unqualified audit.

Chairman NUNN. Did he tell you the name of that official or the position?

Mr. HAST. Yes, he did.

Chairman NUNN. Did you interview that official?

Mr. HAST. Yes, I did.

Chairman NUNN. What was the result of that?

Mr. HAST. The official stated that he speaks to many, many representatives of schools and he did not remember that particular conversation, but at the time that they were operating in, it was the Department's philosophy to get schools into the program, not keep them out.

Chairman NUNN. So that did not seem to disturb that official?

Mr. HAST. It did not.

Chairman NUNN. Senator Cohen, do you have any other questions? Mr. Wheeler, Mr. Hast, Mr. Crawford, do you have any other points you need to make this morning or would like to make?

Mr. CRAWFORD. No, sir.

Mr. WHEELER. No, sir.

Chairman NUNN. We appreciate your work and we look forward to continuing to work with you. I am afraid this problem is a lot bigger than we have seen so far, based on past experience in these areas. We thank you for being here.

Mr. HAST. Thank you, Mr. Chairman.

Chairman NUNN. Our next panel of witnesses this morning are members of the Subcommittee Staff, Staff Counsel, Alan Edelman; David Buckley, the Subcommittee's Chief Investigator; and Staff Investigator, Scott Newton. And they will summarize the results of their investigation of the Pell Grant program thus far. I will ask each of you before you take your seat if you will raise your right hand and then we will swear you in as witnesses.

Do you swear the testimony you will give before this Subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. EDELMAN. I do.

Mr. BUCKLEY. I do.

Mr. NEWTON. I do.

Chairman NUNN. Thank you. Mr. Edelman, I believe you are going to lead off this morning. We appreciate all the hard work that all of you have done.

TESTIMONY OF ALAN EDELMAN, COUNSEL, PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. EDELMAN. Thank you, Mr. Chairman. We have a rather lengthy statement which we will attempt to summarize this morning.

Chairman NUNN. Let me put in the record right after Senator Pell's statement, a statement that Senator Kennedy has submitted and a statement that Senator Byron Dorgan has submitted. They will be part of the record without objection.

Mr. EDELMAN. We also ask, Mr. Chairman, that the Staff's complete statement be submitted for the record.

Chairman NUNN. Your complete statement will be part of the record. Are all parts of that statement public at this point?

Mr. EDELMAN. Yes, sir. Mr. Chairman, at your direction, the Subcommittee Staff and U.S. General Accounting Office's Office of Special Investigations, have been conducting an investigation of allegations of fraud, abuse, and mismanagement in the Federal Pell Grant program. To date, our investigation, which is still ongoing, has uncovered what we believe to be systemic weaknesses in the largest direct Federal student aid program. These weaknesses have enabled some schools to reap millions of dollars of profits while abusing and defrauding the Pell Grant program.

Last year the Federal Government gave out $6.1 billion in Pell Grants to over 4 million undergraduate students. While we hope that most of these funds were applied properly, we know that millions of dollars were not.

Chairman NUNN. At this stage, do we have any way of knowing or even estimating or even guessing with any kind of educated guess how much of this Pell Grant program is now in what we would call the waste, fraud, abuse area?

Mr. EDELMAN. Unfortunately, Mr. Chairman, I do not think we really do. We have heard ranges. There have been statements in the press attributed to individuals within the Department that have claimed that as high as 90 percent of the proprietary school sector funds are in the category of waste and abuse.

Chairman NUNN. But we do not know ourselves?

Mr. EDELMAN. We do not know ourselves.

Chairman NUNN. You do not have any way of judging that now?

Mr. EDELMAN. I do not think so on the basis of our investigation to date. It has been 3 years now since the Staff reported to the Subcommittee on the results of its investigation into problems in the Federal guaranteed student loan program. That investigation revealed widespread fraud and abuse on the part of many key participants in the program. In addition, the investigation revealed serious deficiencies in the role played by the Department of Education in administering and overseeing the loan program and in the roles played by State licensing authorities and independent accrediting agencies in approving schools for participation in the loan program.

Today, the Staff is back once again to report that our continued monitoring of Federal student aid programs has uncovered yet another program which appears vulnerable to serious abuse and fraud. Our investigation to date of the Federal Pell Grant program reveals a program which appears to evidence many of the same systemic weaknesses which plagued the student loan program.

The Staff's investigation is ongoing. Because of the serious nature of our findings, however, and their striking similarity to the Subcommittee's findings with respect to the loan program, we felt it important to report our concerns to the Subcommittee at this stage. The Staff will continue its investigation and will report further to the Subcommittee.

The results of our work to date, though, leads the Staff to believe that the Pell Grant program is beset by major systemic weaknesses which undercut the Government's ability to deter, detect and pursue fraud and abuse by program participants. The checks and balances which were designed in theory to protect the program and ultimately the taxpayer, appear in practice to be ignored or ineffective.

In particular, the Staff is concerned about the following areas. The program's gatekeeping functions designed to prevent ineligible institutions from gaining access to the program are not working. The Department of Education's program review process designed to ensure statutory and regulatory compliance by institutions, once they have gained access to the program, is ineffective at detecting abuse because of inadequate manpower, resources and training.

Finally, procedures to audit the financial aid records of institutions which have left the program, designed to identify possible abuse or fraud and to lay the foundation for actions to recoup monies owed to the Government are largely ineffective and practically nonexistent.

These weaknesses create an opportunity for unscrupulous individuals and institutions to exploit the Pell Grant program, thereby causing the Federal Government to expend tens of millions of dollars in unwarranted or improper payments. In fact, our preliminary investigation so far has found indications that such exploitation is not only taking place, but maybe long standing and widespread.

The Pell Grant program is one of several federally funded student financial assistance programs administered by the Department of Education. First incorporated into the Higher Education Act in 1972 as the Basic Educational Opportunity Grant Program, the program was renamed in 1980 in honor of its original sponsor, Senator Claiborne Pell. The purpose behind the program was to help equalize educational opportunity by providing grants to help eligible undergraduate students from low income families finance their postsecondary education. The program was intended to bring both greater uniformity and greater equity to the delivery of student financial aid through the use of a federally established needs analysis.

Expenditures for the Pell Grant program have increased 100 fold in the program's 20 years. Today, the Pell Grant program receives more Federal funds than any other student financial assistance program authorized under Title IV of the Higher Education Act. We have a chart[1] which shows the total expenditures for the Pell Grant program for the years 1973 through 1992. As you can see, the growth has been rather large in the 20 years that the program has been in existence.

A student who receives a Pell Grant award may use it to attend any one of over 6,000 postsecondary institutions determined by the Secretary of Education to be eligible for participation in the Pell Grant program. These institutions include, among others, nonprofit 2- and 4-year colleges and universities, postsecondary vocational, technical schools and proprietary schools. Our second chart here shows the breakdown between these various types of schools and the amount of Pell Grant funding.

In order to be approved for participation in the Pell Grant program, an institution, among other things, must meet the following three criteria which are set forth in the Higher Education Act. One, it must be legally authorized to offer a program of postsecondary education in the State in which it is located. Two, it must be accredited by a nationally recognized accrediting agency which has been approved by the Secretary of Education. And three, it must be certified and determined to be eligible by the Department of Education.

These standards are designed to serve a gatekeeping function. That is, they are meant to allow only qualified schools to gain access to the program while keeping out those schools that are unqualified. Unfortunately, as the Subcommittee found in its investigation of the loan program, this gatekeeping function has too often failed to meet its intended purpose of protecting the integrity of the Federal Government's financial aid programs.

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[1] See Appendix A to Staff statement, page 183.

With respect to the Pell Grant program, the same is true once again. As a result, it appears that numerous ineligible schools have gained access to the program and have used that access to abuse, and in some cases, possibly to defraud the system.

Our investigation of the Pell Grant program to date has focused on a subset of Pell Grant participants. Namely, certain Judaic Studies and Immigrant Culture programs being operated in the Greater New York area. The courses offered in the Judaic Studies programs generally consist of Hebrew language training and the study of various religious texts. The Immigrant Culture programs, which primarily enroll newly arrived Russian immigrants, consist of English language, Hebrew language, and Judaic Studies courses.

Our focus on these specific types of schools rests on information which leads the Staff to believe that there may be particularly egregious abuses going on in some of these schools and that an examination of the activities of these schools may reveal broader systemic weaknesses within the Pell Grant program as a whole. The Staff wishes to stress that our investigation of these schools is not meant to imply that they are the only abusers of the Pell Grant program. We are aware that other types of institutions, including proprietary trade schools and nonprofit 4-year universities, have engaged in what might be considered inappropriate, and in some cases, improper activities involving Pell Grant funds.

While it thus appears that Pell Grant abuse may be widespread, we believe that a review of the participation of the Judaic Studies and Immigrant Culture programs is particularly warranted given the serious allegations received by the Subcommittee and will provide the Subcommittee with the most instructive case study. On the basis of our investigation so far, it appears that abuse of the Pell Grant program continues to exist among schools offering Judaic Studies and Immigrant Culture programs. While these schools purport to offer standard credit hour courses leading to a certificate, the Staff is dubious of the programs actually being operated in many instances. These programs do not offer vocational training and in fact a number of them admit in their catalogs that their programs are not designed to lead to any type of employment or placement opportunities.

The Staff has been unable to determine how these schools meet the requirements of an institution of higher education as defined in the Higher Education Act. And so far no one at the Department of Education has been able to explain it either.

The types of abuses which we have seen in our investigation raise serious questions as to how these schools were able to gain access to the Pell Grant program at the outset and how they have managed since that time to remain in the program. It appears from our preliminary work that the Department has been inefficient and ineffective in carrying out its responsibilities under the Pell Grant program. Indeed, it appears to the Staff that with respect to the Pell Grant program, the Department has been much more effective at giving out money than it has been at ensuring that those to whom the money is given are appropriate recipients.

One of the areas in which the Department has been ineffective has been its gatekeeping functions with respect to institutional participation. One of our major findings from our 1990 investigation of the loan program was that the triad of State licensure, independent accreditation, and Departmental certification was not effective at screening out institutions which did not belong as participants in that program. Three years later, it appears that the same findings hold true with almost equal force to the Pell Grant program.

Once an institution has been granted access to the Pell Grant program, it is the responsibility of the Department's program review staff to ensure that the institution continues to comply with the program's statutory and regulatory requirements. This review process thus serves an important function in maintaining the integrity of the program. Our review to date, however, has revealed that the review function has been rendered ineffective, due to a lack of manpower, resources and training.

For example, the Department's New York regional office, under whose jurisdiction most of the Judaic Studies programs participating in the program fall, has 11 program compliance employees who are responsible for a total of 850 schools in 3 States, the Virgin Islands, and Puerto Rico. As the chart [1] at the right shows, New York and Puerto Rico schools are in the top four jurisdictions for Pell Grant awards.

Chairman NUNN. How many is that per staff member?

Mr. EDELMAN. 850 schools, 11 employees, so each of them have 80 schools, close to 80 schools.

Chairman NUNN. What are they supposed to do? What is that chart of in terms of reviewing those schools?

Mr. BUCKLEY. Senator, they are actually supposed to go out and assure that the schools are complying with not only the law, but the very complex regulations that implement the law. They go through some student files at the institution and make sure that the students were actually eligible to participate.

Chairman NUNN. How often are they supposed to go out? Are they suppose to visit every school every year?

Mr. BUCKLEY. Absolutely not. They have no hope in accomplishing that goal. They actually have now developed a computer run in Washington that sends out a priority list to the regional offices. And on that priority list, they are supposed to hit the top level and a few within the remaining list of schools in their jurisdiction. They get around to schools every 4 or 5 years. Some schools, large universities, they never get around to visiting, because so much of their effort is concentrated on proprietary schools, 2-year colleges.

Mr. EDELMAN. In addition to being understaffed the program review specialists apparently are woefully undertrained. In the Subcommittee's 1991 report on the student loan program, it was noted that the Department's program review staff often did not recognize potential fraud or other criminal misconduct, because of a lack of any criminal investigative training. The Subcommittee recommended that the Department recognize the propensity for fraud and abuse by its program participants and provide its program compliance staff with criminal training.

Our interviews with Department personnel, however, revealed that this recommendation has not been acted upon and the program review staff still rely heavily on Inspector General personnel for fraud detection. At the same time, interviews with officials from the Inspector General's office revealed that that office remains overburdened. The Inspector General himself told the Staff, "There are a lot of things out there that I know in my heart are wrong, but we have not been able to look at them." The Inspector General specifically cited the Pell Grant program as one of those areas where more work was needed, especially because of the limited amount of checks and balances on the outflow of money from that program, as compared to other student financial assistance programs.

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[1] See Appendix C to Staff statement, page 185.

One of the problems we noted in our examination of proprietary school participation in the student loan program, was the fact that many of these schools terminated operations in mid-year and walked off with loan and grant monies which should have been refunded to the students and the Federal Government. The Subcommittee recommended that the Department improve its procedures so that it moves quickly to audit these closed schools in order to determine potential losses and attempt to collect monies owed.

It appeared, however, that the same systemic weaknesses and lack of staff, training and resources which has hindered the Department's effectiveness in its gatekeeping and compliance functions, are also hindering the Department's ability to effectively audit schools which have closed. Indeed, according to one official at the Department of Education, the lack of closed school procedures has allowed the responsible parties to walk away with hundreds of thousands, if not millions of dollars in Pell Grant money with virtual impunity.

Despite the negative tone of our testimony so far, there is some hope that the Federal Government is at least on track to correct some of these abuses. Following the Subcommittee's 1990 hearings, the Office of Student Financial Assistance Programs was reorganized, creating an Institutional Participation and Oversight Service which for the first time now coordinates the certification and eligibility of accreditation and State licensing, program review and compliance operations within the Department.

The Guarantor and Lender Oversight staff and the Accounting and Financial Management Service are focusing on improved monitoring and systems development in their areas. The Staff notes with much optimism that there seems to be a renewed outlook by both upper management and the career employees regarding their charge to protect Federal funds from fraud and abuse. We all recognize, however, that much work remains to be done to prevent the continuation of the kinds of abuses which have led to today's hearings.

At this point, Mr. Chairman, we would like to give you a few case examples of the types of abuse which we have seen in particular schools.

Chairman NUNN. Before you do that, you mentioned and I think this is part of your testimony that you did not go through, you mentioned a distinction between the Pell Grant program and student loan programs, both in terms of student behavior, in terms of alarm signals that would alert policy makers and managers that there are problems, and also in terms of the quality of education. Could you give us a brief summary of that? What is the distinction between the Pell Grant program in terms of both students and in terms of managers and the student loan program?

Mr. EDELMAN. The first and probably most important distinction is the fact that the Pell Grant program because of its very nature as a grant program means that the students who receive these grants have no obligation to repay them in any way once they have completed their education. It is money which is given to the students to use toward their education without any obligations on their part in terms of service or repayment, unlike the student loan program in which a student is obligated upon completion of his education to repay the loan. That repayment aspect is in itself a useful check on the system, because as we saw in the student loan program, the high default rates which were noticed at a number of schools, often were the alarm bells to serious problems in the management by those schools of the loan program itself.

When you have a program that is purely a grant program with no obligations to repay, you obviously have no defaults and therefore there is no early warning system, so to speak, that you may be having problems in the administration of that program. Also, the fact that a student has to repay his or her student loan, in a sense gives the student himself some sort of stake in the quality of the education that he is supposed to be receiving in return for that loan. If a student knows that he has to repay his loan, he will be more concerned that the education he is getting is, indeed, a worthwhile education that will benefit him in some way in his future. And many times in the student loan program we found that it was complaints by students themselves, that again served as sort of an early warning system that there may be problem schools out there in the loan program.

When you have a grant program, the student does not have that personal stake in his education as he does with a loan. He is getting the money; he does not have to repay it. If he goes to classes, that is fine, and learns something, that is fine. If not, well he has not lost anything because he does not ultimately have to repay it. So again, in the grant situation, you do not have those types of complaints coming from the students about the quality of the education that is being received in exchange for their grants.

Chairman NUNN. That would be particularly true in cases where the students were receiving, in effect, a stipend for going to school. In other words, they were getting paid as a part of their education?

Mr. EDELMAN. That is correct. In many of the instances, we found the schools actually paying the students to attend, rather than vice versa, and so obviously the student will attend for the mere fact that he is being paid to do so, and in many of the cases that was the primary, if not the sole motivating factor for a lot of these students to enroll in and attend these programs.

Chairman NUNN. Thank you.

Mr. EDELMAN. The first specific school that we would like to address at this point is a school called Bais Fruma. Bais Fruma is located in the Boro Park section of Brooklyn and is a nonprofit, religious corporation which offers a 5-year, postsecondary certificate program in Judaic Studies. Begun in 1980, it is affiliated with the Munkacser Hasidic Movement, a branch of Hasidic Judaism which has its roots in Hungary. The school itself is named after the mother of Rabbi Moshe L. Rabinowitz, the leader of the American Munkacser community.

Bais Fruma has participated in the Federal Pell Grant program since 1983. Bais Fruma's affiliation with the Hasidic Movement is an important factor to appreciate in order to understand the type of program offered by the school and why its continued participation in the Pell Grant program raises questions. The Hasidic Movement is an ultra-orthodox movement within Judaism which dates back to 18th century Europe.

The movement is characterized by its religious zeal and its emphasis on prayer and study. For Hasidim, study is not a means to achieving a goal; rather it is a goal in and of itself. Indeed, study is more than just a goal; it is a religious obligation. Moreover, study is not a strictly defined process which has a clear beginning, middle and end. Study within this community is a never-ending process in which new understanding and new insight is constantly sought.

Bais Fruma's own school bulletin captured the essence of this approach when it described the community it served as one "famous for its fervency, ardor, and passion for study, rumination and application of classical Judaic literary concepts." Thus, although it is established on paper as a certificate granting institution, it is clear that the certificate offered by Bais Fruma has little, if anything, to do with its true mission. This is readily evident from Bais Fruma's own documents. According to its 1991–1993 Bulletin, "Bais Fruma is a postsecondary school of Hebraic and Judaic Studies focusing on the promulgation of lifelong learning and intellectual enrichment."

Bais Fruma emphasizes that it is a nonvocational institution which offers its students neither placement nor job referral service. In this regard, Bais Fruma has made the following placement disclaimer:

> Bais Fruma's Judaic study certificate program is a nonvocational study program. It offers students an opportunity for personal growth and development, rather than for career preparation or professional progress. In fact, Bais Fruma does not guarantee its students or graduates employment or placement as a result of their studies at the institution. Neither does Bais Fruma claim in any way to advance its students' earning opportunities as a result of earning the Judaic Studies certificate.

The program offered by Bais Fruma is structured as an independent or self-directed study program. Bais Fruma provides its students with no equipment, no supplies, no books, no classrooms, no teachers, and no classes. Students study a subject on their own, under the guidance of a mentor with whom they are supposed to maintain at least eight contacts during a semester. In light of Bais Fruma's educational structure, philosophy and objectives, the Staff questioned how this school was allowed in the first instance to participate in federally funded Pell Grant programs.

As is the case with the other schools, we will describe in our statement, it appears that the gatekeeping functions envisioned by the Higher Education Act once again proved ineffective at preventing the entry of a questionable school.

Bais Fruma first applied for approval to participate in Federal student financial assistance programs in 1983. In order to obtain such approval, Bais Fruma had to meet the three statutory requirements which we outlined early in our statement. Because of its status as a religious institution, Bais Fruma is not licensed by the New York State Department of Education for the purpose of offering courses for credit or conferring degrees. Although it thus failed to meet the first requirement for participation, namely, that it be legally authorized in its State to provide a program of postsecondary education, Bais Fruma, like many other Judaic Studies programs in New York, was allowed to participate in these Federal programs on the basis of a 1967 determination by the then-Office of Education that "Rabbinical schools are making a unique and meaningful educational contribution to a large segment of the American population."

Bais Fruma was initially determined to be an eligible institution for financial assistance programs, despite the fact that it also failed to meet the second statutory requirement that it be accredited by a recognized accrediting agency. Again, like a number of Judaic Studies schools, Bais Fruma utilized a statutory loophole known as the 3IC rule to get around the accreditation requirement. Under the 3IC rule, an institution which is not accredited could nonetheless be eligible for participation if its credits were accepted on transfer by not less than three institutions which are accredited.

Bais Fruma used the 3IC alternative to accreditation to obtain its initial approval in 1983 and again to obtain re-approval in 1986. Congress subsequently repealed the 3IC rule in the Higher Education Act amendments of 1992.

The third major requirement for program participation includes a certification by the Department of Education of an institution's financial and administrative capabilities and a determination by the Department that the institution is eligible under the definition of an institution of higher education.

With respect to the Department's determination of eligibility, it appears to the Staff on the basis of a review of the pertinent documents that the Department may have been misled by Bais Fruma as to the true nature of Bais Fruma's educational program. The Department's standard form for requesting institutional eligibility at one time contained a question for nonprofit institutions as to whether or not they train individuals for religious vocations or to be teachers of religion. In its initial application in 1983 and in its subsequent renewal applications in 1986 and 1989, Bais Fruma answered yes to this question. This answer is in direct contradiction to the statements made by Bais Fruma concerning its history and mission in its current bulletin.

In addition, Bais Fruma's 1982–1983 Bulletin which apparently was provided to the Department of Education as part of the school's initial application for eligibility, portrays the school as a 4-year women's teacher seminary which grants teaching certificates in Jewish education. No indication is given in that bulletin that Bais Fruma is an independent study school which grants certificates in a nonvocational, Judaic Studies program.

By the time Bais Fruma published its 1991–1993 bulletin, all references to teacher certificates and job placement as teachers had been eliminated. The program portrayed in this bulletin, which is the school's current bulletin, is strictly an independent study program leading to a certificate in Judaic Studies and not guaranteed to lead to any employment or career advancement. It is possible that Bais Fruma started out as a women's teachers' seminary and eventually changed over to a broader based Judaic Studies program. However, none of the history of the school provided in its current bulletin attests to that fact.

In fact, one of Bais Fruma's documents, details a history of the development of the school, in which it states that it grew out of a weekly lecture series on topics of Jewish interest which had been designed to cater to the educational needs and aspirations of adults.

Once Bais Fruma obtained approval to participate in the Pell Grant program, its receipts from the program grew steadily. For the 1983–1984 school year, the first for which it was eligible, Bais Fruma received $149,725 for 86 Pell Grant recipients. By 1991, those figures had grown to more than $4.5 million for 1,997 recipients. Over the 10 years that Bais Fruma has now been participating in the Pell Grant program, it has taken in over $22 million in Federal funds.

The chart at the right shows the progression of Bais Fruma's receipts under the Pell Grant program.[1]

It appears to the Staff that Bais Fruma has turned into a virtual Pell Grant mill and that its real raison d'etre may have more to do with obtaining Pell Grant funding than with providing educational opportunities. Almost all of Bais Fruma's enrolled students receive Pell Grant funding and the vast majority of those receive the maximum yearly award of $2,400. According to work papers provided to the Subcommittee by Bais Fruma's certified public accountant for the 1991–1992 academic year, 97 percent of Bais Fruma's students receive Pell Grants.

Where do these students come from? An analysis by the Staff shows that Bais Fruma is enrolling entire families and even entire neighborhoods into its program. In the 1991–1992 academic year, almost 2,000 Bais Fruma students received Pell Grants. This number was comprised of 530 families which had at least two family members receiving a grant. Of these 530 families, 50 families had three or more members receiving grants, and in one instance a family had nine family members attending Bais Fruma on Pell Grants.

The Staff has found another strange pattern for which it as yet has no clear explanation. As was the case in the other schools the Staff has examined, a number of students receiving Pell Grants to attend Bais Fruma had also received grants to attend three or more other Judaic Studies programs. At least 47 Bais Fruma students exhibited this pattern. In one instance, a student named Judith Schwartz received Pell Grants to attend Beth Rochel Seminary, Rockland Community College, Touro College and Bais Fruma.

In an interview with officials of the General Accounting Office and the Department of Education, Ms. Schwartz stated that she went to whichever school "they sent me." When asked who "they" were, Ms. Schwartz started to give a name, but then stopped and stated that she did not know who "they" were. It is possible that these students names were merely sold or otherwise passed on to various schools without the knowledge of the student or the attendance of the student at the institution which received Pell Grant funding on his or her behalf.

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[1] See Appendix D to Staff statement, page 187.

The Staff has come across at least two instances in which this may be the case. One of these involves a student named Sara Hoffman. Department of Education records show that Sara Hoffman received Pell Grants to attend United Talmudical Academy of Monsey, Bais Fruma, Touro College, and Rockland Community College. When questioned about this pattern of attendance, Ms. Hoffman stated that she had never enrolled in or attended Touro College or Bais Fruma. Ms. Hoffman even provided a handwritten statement to that effect which she signed in the presence of a representative of the General Accounting Office.

Under subpoena the Staff obtained from Bais Fruma the student file of Sara Hoffman. A comparison of the various signatures on the Bais Fruma documents with the signed statement provided by Ms. Hoffman to the GAO representative, reveals these signatures to be inconsistent with the known signature of Ms. Hoffman and with each other.

In the chart[1] at the right, Senator, you can see the known signature of Sara Hoffman is in the column on the left and the column on the right are the various signatures of Sara Hoffman which were contained on the documents contained in Bais Fruma's student file. And I think it is rather clear just from a layman's look at them that the signatures are different. In fact, a number of Bais Fruma's documents not only contained signatures different from Ms. Hoffman's, but they misspelled Ms. Hoffman's first name. Ms. Hoffman spells her first name S-a-r-a, while some of the Bais Fruma documents spell the name S-a-r-a-h. And you can see that on the chart here.

Chairman NUNN. Now on those application forms, are those supposed to be the signatures? Is it clear that those are supposed to be the places where the applicant herself signs?

Mr. EDELMAN. On each form the signature which we have reproduced here was taken from the line where the student signs the particular form.

Chairman NUNN. Are these certifications or are they simply applications?

Mr. EDELMAN. Some of the documents in the file are the school's own application documents, a so-called learning contract which the students signs with the school, and registration and enrollment forms. However, there were documents in there which were certification documents which are part of the Pell Grant application process. And the student signs the document certifying that the information in the document is true and accurate.

Chairman NUNN. What are the legal implications of signing an inaccurate or basically having—let us say you have someone who signs Sara Hoffman's name without authorization or even with authorization on a certification, what are the legal implications of that?

Mr. EDELMAN. It could fall under the Federal Criminal Code for making false statements to the Government. I believe that would be 1001. There are criminal penalties for making false statements. To the extent that this student or the school did, in fact, receive Pell Grant funding on the basis of those documents, the school or the student would be illegally obtaining funds under false pretenses.

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[1] See Appendix E to Staff statement, page 188; Exhibit No. 32 retained in Committee files.

Mr. BUCKLEY. Senator, you said with the student's approval, as well. That was without the student's approval. If the student were to give someone approval to sign his or her name, then you would have a much harder time proving a criminal offense, of course.

Mr. EDELMAN. We do note that in this particular case of Sara Hoffman, one of the documents which misspelled Ms. Hoffman's name was the signed Pell Grant certification form. So it would thus appear that that form was signed by someone other than Ms. Hoffman herself. Who signed this document and what knowledge Bais Fruma officials had of this is unfortunately something upon which the Staff can only speculate at this point due to the refusal of Bais Fruma officials to submit to questioning by the Staff.

It does appear clear, however, that Bais Fruma utilized the services of at least one student broker for the purposes of signing up Pell Grant eligible students. The Staff has obtained the files of a number of Bais Fruma students which came from an admitted student broker by the name of Jacob Ginzburg. All of these students which included Ginzburg himself and his wife, Malka, received Pell Grants. And this is the broker to whom the GAO representatives were referring earlier this morning in their testimony. At the time that Mr. Ginzburg's offices were raided and he was arrested, a number of Pell Grant application files were seized and of those 33 were for students who were enrolled at Bais Fruma.

Chairman NUNN. Now Mr. Ginzburg has fled the country; is that right?

Mr. EDELMAN. Mr. Ginzburg has fled the country and is currently a fugitive from justice. There have been reports that he is in Israel, but at this point the authorities have not been able to locate him.

The evidence which the Staff has uncovered raises serious questions as to whether Bais Fruma had any regard for who it enrolled or how it got its enrollees. It appears to the Staff that Bais Fruma was not so much concerned with offering educational opportunities for adults to pursue Jewish scholarship, as it was with signing up whomever it could get its hands on in order to maximize Pell Grant disbursements to the school.

In addition to questions about Bais Fruma's enrollment practices, the Staff also has serious questions about the structure of Bais Fruma's educational program. In the first instance, Bais Fruma's tuition charges seem to bear no rational relationship to the school's true costs of providing its educational program. Rather it appears to the Staff that Bais Fruma's tuition has been artificially set, again, in order to maximize the amount of Pell Grant disbursements for which its enrollees may be eligible.

Moreover, a close analysis of Bais Fruma's program leads one to question the reasons for its establishment as an institution which grades students and confers certificates. In essence, the students enrolled in Bais Fruma's program are doing nothing more than reading various Jewish texts on their own and occasionally discussing these texts with someone supposedly more learned than themselves. It should be remembered as we discussed at the outset of this section, that this activity is taking place in the context of a community which views the study of Jewish texts as part of one's religious obligation. Thus, Bais Fruma students are in reality doing nothing more than what any observant member of the community would otherwise engage in as part of his religious observance.

The certificate awarded by Bais Fruma appears to be an essentially worthless piece of paper, because as Bais Fruma itself states, its program is not designed to lead to career preparation or professional progress. Students enrolled in Bais Fruma's program therefore must be engaging in this course of study for the sake of knowledge itself. Again, it must be remembered that this is exactly the view of study which is at the core of this community's religious beliefs.

Why then create a program which grades students and has academic transcripts, which tracks satisfactory academic progress and which awards certificates of Judaic Studies? In the absence of any evidence to the contrary, it seems clear to the Staff that the only reason must be in order to qualify such a program to receive Federal student financial aid funds. This is exactly what Bais Fruma appears to have done. It applied to participate in Federal student financial aid programs at the earliest moment at which it became legally entitled. Upon being accepted, it steadily increased its participation to the point at which it was receiving over $4.5 million in Pell Grants in 1 year alone. In fact, in 1992, Bais Fruma's Pell Grant receipts constituted over 86 percent of its total income.

The main questions all of this leads to, of course, are why would Bais Fruma want access to Federal funds and what has it done with the Federal money it has received over the years? Once again, the Staff can only speculate on these issues because of the refusal of Bais Fruma's officials to submit to questioning. A review of Bais Fruma's financial statements and bank records, however, does suggest some possible answers.

The Staff reviewed Bais Fruma's bank account records for the period December 1989 through April 1993. This review revealed the following payments during that time period which are shown in the chart on the right. Cross checking these payments against Bais Fruma's financial statements reveals that the payments to the Rabbinical Seminary of Munkacs represent payment on a mortgage for a piece of property at 1377 42nd Street in Brooklyn. The chart[1] shows the payments to the Rabbinical Seminary total $412,500 for the time period studied. This mortgage, which commenced in September 1991, is in the amount of $700,000 and its terms call for interest-only payments for 10 years, payable at an interest rate of 7.5 percent.

The Staff notes that Bais Fruma made five payments, totally $250,000 to the Rabbinical Seminary between November 1990 and June 1991, well before the commencement of the mortgage. The Staff has been unable to determine whether these payments were related to the purchase of this property.

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[1] See Appendix F to Staff statement, pages 189–190.

The payments to the Boro Park Torah Institute, which the chart shows as totaling over $1.2 million, also represent payment on a mortgage. This one is in the amount of $2 million for a piece of property located at 4018 15th Avenue in Brooklyn. This address is literally around the block from the first property, and the chart here shows photographs of each of these properties.

Senator COHEN. Is that 18 percent interest?

Mr. EDELMAN. Yes, Senator.

Senator COHEN. When was that mortgage entered into?

Mr. EDELMAN. That mortgage commenced in September 1988 and also called for interest-only payments for 10 years, and as you have noticed, the rate for that mortgage was 18 percent.

Senator COHEN. Which bank?

Mr. EDELMAN. There's no bank involved in this. And, in fact, there is no note or no paper evidencing this mortgage or the mortgage on the other piece of property.

Chairman NUNN. What were the normal mortgage rates when that 18 percent mortgage was entered into?

Mr. EDELMAN. The Staff was rather suspicious of this high interest rate so we checked the mortgage rate indices for the year 1988. This check confirmed our suspicions when we found out that in September 1988, mortgage rates ranged between 10 and 11 percent. Why Bais Fruma would sign a mortgage for 7 to 8 percentage points more than prevailing market rates is again something that unfortunately we are unable to answer, because we have not been able to get anyone at Bais Fruma to talk to us.

Chairman NUNN. Is that mortgage still current? Does it continue today?

Mr. EDELMAN. That mortgage is still current. They are still paying monthly payments, to the best of our knowledge, on the mortgage and the rate is still 18 percent. And as we all know, mortgage rates since 1988 have steadily dropped to the point where today they range from 6 to 7 percent. And again why Bais Fruma has not over the years sought to refinance this mortgage or cut the mortgage rate down is a question which we have been unable to ascertain the answer to.

Senator COHEN. Excuse me for interrupting, Mr. Chairman, but is that an empty building?

Mr. EDELMAN. Yes, Senator, both of the buildings are empty buildings and the Staff went to the location of each of these buildings, looked into the buildings, found them to be basically shells of the building.

Senator COHEN. No prospects for renovation?

Mr. EDELMAN. We saw no signs that any renovation had been done on either of the buildings that any signs of any renovation was underway at any of the buildings. We would note in that regard that the picture on the bottom which is the 15th Avenue address, on which they have a $2 million mortgage, is a building which Bais Fruma has now held for 5 years. And in those 5 years, there are no signs that they have done anything to make any use of the property and all they have done is pay money, over a million dollars on the mortgage.

Chairman NUNN. Are you going to go into explanation about the recipients and who they are?

Mr. EDELMAN. Yes, Mr. Chairman. The other thing about these two pieces of property which has struck the Staff as odd, is the fact that as we stated at the outset, Bais Fruma is an independent studies school. It is a school which has no teachers, no classrooms, no laboratories, no dormitories. Students who attend the school study on their own in their homes. Why then in light of that Bais Fruma needs two such buildings of rather large size is again a question which the Staff has which no one at Bais Fruma has been willing to answer for us.

A closer examination of the mortgage holders on these properties makes the payments even more intriguing. The Rabbinical Seminary of Munkacs is, of course, run by the Munkacser Hasidic Movement. The Munkacser Movement also runs Bais Fruma. Moreover, a check of the Metronet name and address database reveals two addresses for the Rabbinical Seminary of Munkacs—4712 14th Avenue and 4601 14th Avenue, both of those in Brooklyn. These addresses were confirmed by a call to directory assistance for the 718 area code which is Brooklyn. Of the two addresses listed for the Rabbinical Seminary of Munkacs, one, 4601 14th Avenue, is the same address as that of Bais Fruma.

The Boro Park Torah Institute, which is the holder of the mortgage on the property pictured in the bottom photograph, also appears to be affiliated with the Munkacser Movement. A check of the Real Property Display database for the address 4018 15th Avenue, the address pictured here [indicated], shows the owner to be "Boro Park Torah Institute, c/o Rabbinical Seminary of Munkacs." A cross check with directory assistance for the 718 area code revealed no separate telephone listing for Boro Park Torah Institute.

It is possible that these mortgages are nothing more than convenient ways for Bais Fruma to launder its profits, while at the same time legitimizing what is in essence nothing more than the transfer of Federal funds from one arm of the Munkacser Movement, namely, Bais Fruma to other affiliated arms, namely, the Rabbinical Seminary and the Torah Institute.

Similarly, the Staff questions the payments to Mosdos Munkacs, the United Munkacser Yeshiva, Congregation Kahal Adas Israel Munkacs, Yeshiva Minchas Eluzar Kollel, and Yeshiva Minchas Eluzar, insofar as each of these entities are also arms of the Munkacser Hasidic Movement. The affiliation of the first three is obvious from their names. The affiliation of the latter two was determined when the Staff visited the 4712 14th Avenue address listed for the Rabbinical Seminary of Munkacs. On the outside of this building, which is only one block away from Bais Fruma, was an inscription in Hebrew which read "Beit Midrash V'Yeshiva Minchas Eluzar Munkacs."

According to Bais Fruma's Cash Disbursements Journal for the period September 1, 1991 through August 31, 1992, the only period for which the Subcommittee was provided with such a journal, the payments to Mosdos Munkacs and Yeshiva Minchas Eluzar Kollel were listed as being for "educational" research. The Staff notes that for the 2-year period from March 1991 through April 1993, Bais Fruma paid a total of $170,500 to these two institutions. In addition, Bais Fruma also made a one-time payment of $8,000 to K'hal Chasidim Munkacs London in February 1992 and a one-time payment of $5,000 to K'hal Chasidei Munkacs in March 1992. The purpose of these payments was also listed as "educational research."

Why a school which is run as an independent, self-directed study program needed to spend over $183,000 on educational research is a question which again the Staff has been unable to answer.

With respect to the payments made to Mosdos Munkacs, the Staff notes that $23,000 paid to this entity was wired to an account in B'nei Brak, Israel. The Staff has also discovered that three wire transfers made by Bais Fruma in 1992 from its own bank account in New York went to Israel to an account in the name of Bais Fruma. These transfers totaled over $120,000. And again, the Cash Disbursements Journal lists these payments as being for educational research.

The payments to Congregation Kahal Adas Israel Munkacs, which totaled over $240,000, are listed in the journal as being for a "training facility." Again, why an independent study school which employs no teachers needs a training facility is a question which the Staff cannot answer.

The journal lists the payments to Yeshiva Tifereth Bunim as being for rental of a library and the payments to Yeshiva Chaim V'Shulom as being for rental of a property at 1270 52nd Street, Brooklyn. That address is shown in the photograph on the top.

From its inception in 1980 until sometime in 1986, Bais Fruma was located in this address, pictured in the top photograph. According to a February 1989 letter by Rabbi Simche Waldman, Bais Fruma's administrator, the school moved from the 1270 52nd Street address to its current location at 4601 14th Avenue in order to secure additional space. The letter states that students and faculty were transferred to the new location at that time. The photograph at the right shows this location today. Nothing on the outside of the building indicates that it has anything to do with Bais Fruma. Indeed the sign on the outside of the building reads, Talmud Torah Tiferes Bunim Annex. This building is attached to the building in the photograph on the bottom which also bears a sign reading Talmud Torah Tiferes Bunim. The address for this building is 5202 13th Avenue.

As you will notice from the photographs the sign on each of the buildings contains Hebrew writing above the English name. While I do not expect any of the members of this panel to be able to read that writing, I can tell you that it states——

Senator COHEN. I wouldn't be so sure of that.

Mr. EDELMAN. I apologize, sir.

Chairman NUNN. You are right about the Chairman though.

Mr. EDELMAN. I will read it for you anyway. The writing reads, "Talmud Torah Tiferes Bunim D'Munkacs," again indicating that the institutions operating in these buildings are part of the Munkacser Movement. From observations of these buildings, it appears that they are a high school. The Staff has been unable to determine why Bais Fruma is paying rent for a building which it acknowledges having moved out of years ago, nor does the Staff know why Bais Fruma is renting a library from a high school, particularly in light of the fact that Bais Fruma's school bulletin states that its own facility contains a "well stocked Judaica library." All we do know is that over the past 3 years the payments to Tifereth Bunim and Chaim V'Shulom have totaled over $1 million.

Staff also notes that as was the case with the two mortgages which Bais Fruma is paying, no written agreements appear to exist with respect to any of these rentals. Again, this raises questions as to whether these are legitimate arms-length transactions.

A number of the recipients of the large payments from Bais Fruma are either yeshivas or kollels. These types of entities are institutions of religious study. Yeshivas are generally institutions at the elementary or secondary level, while kollels are generally institutions designed to allow young married men to pursue the study of "Torah Lishmah"; that is, the study of Torah for its own sake. Because the yeshivas are essentially parochial schools and the kollels are non-degree granting, nonvocational schools, neither of these types of institutions would usually be eligible for direct Federal funding.

In light of this fact and in light of the numerous payments made by Bais Fruma to these institutions, the Staff questions whether Bais Fruma's participation in the Pell Grant program is being used by the Munkacser Movement as a vehicle to funnel Federal funds to various religious institutions which otherwise would be ineligible to receive Federal aid. While the Staff currently has no direct proof that such is the case, the blanket invocation of the Fifth Amendment privilege by the administration of Bais Fruma and their refusal to cooperate with our investigation leaves troubling questions such as this unanswered. The Staff would certainly like to hear Bais Fruma's explanations for these payments, as well as for numerous other questions which we have about its operations.

At this point, Mr. Chairman, Mr. Buckley will detail the results of our findings with respect to the Sara Schenirer Teachers Seminary.

Chairman NUNN. OK.

TESTIMONY OF DAVID B. BUCKLEY, CHIEF INVESTIGATOR, PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BUCKLEY. Mr. Chairman, another school we examined was Sara Schenirer Teachers Seminary, a small, private, nonprofit religious institution operating in Brooklyn, New York. According to its catalog, the school was created to, "Offer a challenging program of higher Jewish study that will prepare women to serve as teachers, mothers, and full realized individuals in the Jewish community."

Based on our investigation, we determined that Sara Schenirer veered from this stated course in the late 1980s and has become nothing more than a Pell Grant mill abusing this Federal program and profiting from it. In the past 10 years this school has drawn down almost $11 million in Pell Grants.[1] Our investigation of Sara Schenirer Teachers Seminary revealed an institution which does not meet the eligibility requirements to the Federal law for participation in the Pell Grant program. We believe the institution circumvented the gatekeeping process to become eligible, receiving waivers from the State of New York and the U.S. Department of Education.

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[1] See Appendix G to Staff statement, page 191.

The school has not only survived, but profited as a direct result of the Pell Grant program. Over 97 percent of those enrolled obtained Pell Grants. And there is little or no relation between tuition charged and the cost of the school's operation. Rather than fund quality education, the school has used its Pell-generated profits to make large investments. Last year it transferred over $800,000 to an affiliate, paid off its mortgage, and maintained over $1.2 million in mutual funds. These transactions would have been impossible were it not for the Pell Grant program. Courses offered do not confer a degree nor lead to employment in a recognized field, but instead result in a nonvocational certificate in Judaic culture and religious heritage.

We seriously question whether the Pell Grant program was intended to subsidize these kinds of programs. The quality of the education received is doubtful. Several students that were interviewed could not even recall attending the school's classes. Many students attended classes because they were paid to do so. Classes were held in community centers or synagogue basements and some instructors are part time and also teach at a competitor's school. Books are loaned by the school and despite an enrollment of over 1,500 students in 1991, the school spent only $21,000 on education materials and supplies that year.

We found incomplete, erroneous or questionable student files and documents. Some data in student files is clearly an error, as it is inconsistent with the information contained in the files and other schools the students supposedly attended for which they also received Pell Grants. Some students interviewed said that they had not attended the school, nor received a Pell Grant in contrast to school records. Department of Education data reflects some students received Pell Grants at several other schools, yet none of the students transferred credits.

The Staff's inquiry into the operation of Sara Schenirer Teachers Seminary has been difficult and time-consuming. While we have uncovered evidence of what the Staff considers to be abuse of the Federal Pell Grant program at Sara Schenirer, we have to date been unable to determine all of the facts concerning the school's participation in the Federal program. This is largely due to the fact that no one at the school will consent to be interviewed by the Subcommittee Staff. As a result, the Subcommittee issued deposition notices and appearance subpoenas to Mr. Michoel J. Meisels, the president and dean and to Mrs. Toby Broyde, the director of student financial aid.

Counsel for both Meisels and Broyde advised the witnesses would decline to testify citing their Fifth Amendment privilege, protecting them from self-incrimination.[1] Counsel for the school also advised the Staff that his recommendation to any other employees of the school which the Subcommittee may subpoena for testimony would be that the employee not answer any of the Subcommittee's questions and invoke the constitutional privilege. So the Staff had to rely almost exclusively on document review and interviews of students to learn anything about the operations of the school.

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[1] Exhibit No. 24 retained in Committee files.

Attempts to obtain information from the school's board of directors resulted in the same response. Mr. Yitzchak Eichenthal, a CPA and member of the board; Mr. Elyasaf Slanger, the current chairman of the board; and Mr. Samuel B. Tress, the former chairman of the board, all advised through counsel that they too would assert their right not to incriminate themselves if called to testify in deposition.

No one at this school will cooperate with the Congress in its examination of their receipt of over $11 million in Federal funds. Last year Sara Schenirer enrolled over 2,000 persons in certificate programs which are not vocational in nature and are not designed to lead to employment of any kind.

Chairman NUNN. Is this school still receiving Federal money as we speak?

Mr. BUCKLEY. It was cut off last week by the Department of Education.

Chairman NUNN. Is that a cut off or is that just raising questions? What has the Department actually done?

Mr. BUCKLEY. The Department has put them on notice that they are being reviewed because the Department now understands that they are not a vocational school. It also put them on a reimbursement plan. In effect, they are not allowed to disburse any Federal funds whatsoever. If they elect to disburse their own funds and later on it is reversed and they are determined to be eligible, the Department will reimburse them for those monies.

Chairman NUNN. But they were receiving money until last week from the Federal Government?

Mr. BUCKLEY. That is correct.

Chairman NUNN. When did you first try to question these officials in this particular school?

Mr. BUCKLEY. We served the Subcommittee's document request subpoena in February. I think it was February 25 of this year and since that time have raised a variety of questions with counsel and have asked repeatedly to be permitted to interview employees at the school, financial aid officer, the dean, and others and we were denied.

Chairman NUNN. How much Federal money, taxpayer money, has this school received since you first tried to interview them and were refused cooperation?

Mr. BUCKLEY. Well, Senator it was probably right at the end of the spring/summer. They did not receive any over the summer because school was out. I have no idea how much they drew down in September. I do not know the answer to that.

Chairman NUNN. How much in the previous year, 1992?

Mr. BUCKLEY. In 1992, they pulled down almost $5 million.

Chairman NUNN. So you have got a school where it is getting taxpayer money—$4, $5, $6 million a year, in that range—that absolutely refuses to cooperate in any inquiry relating to how they are spending that money or how they are receiving that money or their students?

Mr. BUCKLEY. Any inquiry by this Subcommittee. That is not to say that they have not allowed the Department of Education in the door, but we have not been welcome.

Chairman NUNN. Do you know whether the Department has been given access?

Mr. BUCKLEY. I know that the Department of Education conducted a program review of this institution late last year and early this year. I assume they were given access to files. In their report, they do not say anything about being prohibited of access.

Chairman NUNN. But that review by the Department did not result in any action taken against the school, did it?

Mr. BUCKLEY. It was basically a clean report. They did not find anything.

Chairman NUNN. And that was when?

Mr. BUCKLEY. That was the end of last year. I think that report was finalized in January of this year.

Chairman NUNN. Did you share the information from this Subcommittee with the Department of Education?

Mr. BUCKLEY. I have, yes, sir.

Chairman NUNN. Is it your belief that that is the basis on which they have cut off the funds?

Mr. BUCKLEY. I believe that when we advised the Department that we, the Staff, were unable to determine how these schools met the statutory definition of an institution of higher education to participate in the programs, that they went back and reviewed these schools and their participation. And based on this subsequent review, under the current management of the Department, they decided to terminate or at least call into question their continued participation.

Chairman NUNN. Can you tell me again when the Department reviewed this school and when it was given a clean review?

Mr. BUCKLEY. Yes, the review was conducted at the end of last year, December of 1992.

Chairman NUNN. The end of 1992?

Mr. BUCKLEY. Yes, and then the report was prepared, I believe, in January. We subpoenaed the school in February.

Senator COHEN. Mr. Chairman, could I just inquire? Could you explain to me how a review can be conducted in a period of roughly a month of December and a report issued in January, and yet no action has been taken since you called it to the attention of the Department in as early—I assume it was February when you issued the statement? So we have gone from February until October before any action is taken? So they can give a clean bill of health in 1 month, but cannot cut off payments for a period of 10 months?

Mr. BUCKLEY. Senator, I am sorry I gave you that impression. We served a subpoena on them in February. It took until May before they started producing any documents whatsoever. And it was after sitting down and reviewing those documents and reading what the school had provided to us and then comparing it to what we know about the law. It was already early summer before we approached the Department with our concerns.

Senator COHEN. So you did not approach them until August, July-August?

Mr. BUCKLEY. It was July, yes, sir.

Senator COHEN. Is it fair to say that but for the activities of the Subcommittee that there would be no action taken against this particular school?

Mr. BUCKLEY. I think that is very fair to say.

Senator COHEN. Thank you, Mr. Chairman.

Mr. BUCKLEY. The school's student body is mostly comprised of elderly, Russian immigrants who are paid to attend classes in basic English and Jewish culture and religious studies. 99 percent of those enrolled in the school's immigrant culture program received Pell Grants. In just the last 2 years, the Federal Government has spent $8 million so that 3,600 immigrants could attend Sara Schenirer classes in Jewish history in the basements of synagogues and community centers in Brooklyn and the Bronx. All of the immigrants are poor; many are elderly; some in their 70s and 80s. Many of the students that we were able to locate and interview admitted that they attended the classes because they are financial dependent on the several hundred dollars they receive from the school each semester to attend classes.

Last year this nonprofit, tax exempt school reported a net worth in excess of $2 million. It had investments totaling $1.2 million and spun off at a cost of over $800,000, a new tax exempt organization. Sara Schenirer's revenue for the fiscal year ending June 1992 was $3.2 million, almost all of which was Federal Pell Grant funds. Its administrators, a husband and wife team, took over $112,200 in cash compensation for the 1991–1992 school year. We discovered that while its enrollment of Pell Grants received mushroomed, expenses for educational materials and supplies decreased dramatically.

In 1989, the school spent $127,177 on education materials and supplies, but in 1992, when gross revenue reached $3.2 million, the school spent a paltry $60,188 on educational materials.[1] According to the data of the Department of Education, the school's enrollment skyrocketed in the last couple of years from 51 students receiving Pell Grants in 1988–1989 to 2,102 in the 1992–1993 school year.

Like too many schools operating in the Federal student aid programs, Sara Schenirer Teachers Seminary is not successful because of its ability to thrive in a free market, instead it is profitable because of the Federal Pell Grant program. Would 5,000 students have attended this institution if they had to pay the tuition charged by Sara Schenirer? The answer is evident after reviewing the facts. The vast majority of the student body paid nothing, but instead were paid $200 a semester to attend classes.

Many people in New York's Russian community told the Staff that the people enrolled in these programs, do so because of the payments they receive to attend classes. None of the students we interviewed would be willing to pay to attend the classes and several said they would not bother enrolling if they were not paid to attend.

In 1992, aside from its $3.2 million in tuition revenue, the school reported income from only three other sources. They received about $43,000 in contributions. It received $33,000 from investment income. And it received $5,732 from the Department of Education which paid it to properly administer the Pell Grant programs. After all expenses, Sara Schenirer Teachers Seminary reported $1.3 million in excess revenue for the 1991–1992 school year.

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[1] See Appendix H to Staff statement on page 192.

Chairman NUNN. The Department of Education pays schools to administer the Pell Grant program?

Mr. BUCKLEY. Yes, Senator.

Chairman NUNN. Is that a normal fee?

Mr. BUCKLEY. To provide them with administrative costs because we wire the money into their accounts and they are to properly disburse it into their tuition accounts and to the students. And we reimburse, as far as I know, all schools that participate in Title IV program.

Tuition charged is $1,175 per semester, $25 less than the $1,200 maximum Pell Grant award per semester. The tuition fee to attend this federally-tax exempt school has very little to do with what it cost to educate, but has everything to do with the Federal student grant programs that its students are qualified to participate in. Sara Schenirer Teachers Seminary is truly a Government-sponsored enterprise with its profitable existence due to the funds made available by the Federal taxpayer for programs of dubious worth.

The Staff reviewed the school's participation in the Federal student aid programs and the school initially applied for participation in 1974. We have already gone over the Federal criteria the school must meet, so I will not go over that again. But I will say that in our 1990 investigation of the Federal student aid programs, we found this gatekeeping function by the Department of Education to be ineffective and almost meaningless.

During this review, we found this to be true in the case of Sara Schenirer Teachers Seminary.[1] Based on our review of this school's participation of the program, we made the following observations. First, the requirement for State licensing. There was recognition by the State and oversight provided by such a process was waived by the Department of Education. Sara Schenirer is a religious institution not regulated by the State of New York's Department of Education because the school is not recognized by the State as a degree-granting institution and because its wholly religious status, the State refused to license it.

Chairman NUNN. So you got the State of New York that would not license it and you have got the Federal Government pouring money into it?

Mr. BUCKLEY. That is correct. In May 1985, the New York State Education Department solely for the purpose of the school's application to continue participation in Federal student aid programs, authorized Sara Schenirer to provide programs beyond a secondary education. The State Department of Education did so at the U.S. Department of Education's request. It is not something they wanted to do. As a matter of fact, the correspondence files indicate that they were dragging their feet; they did not want to confer any recognition at all; but they issued a letter saying solely for Federal purposes, we will recognize you as an institution of post-secondary education.

Chairman NUNN. That was in 1985?

Mr. BUCKLEY. Yes, sir. When it applied for recognition in 1974, Sara Schenirer was not accredited, instead it certified that at least three accredited institutions accepted its students and academic credits earned at Sara Schenirer as transfer students. As Mr. Edelman told you, this is known as the 3IC method of eligibility. After two tries, the Sara Schenirer certification was accepted in lieu of accreditation. The second gate was open.

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[1] Exhibit No. 14 retained in Committee files.

Finally, a school must be financially responsible and satisfy eligibility requirements to qualify for participation in these Federal student aid programs. This determination is made by the staff of the U.S. Department of Education's Washington, D.C. office. In the case of Sara Schenirer, we were unable to review the Department's financial certification file for the school, because it is missing from the Department's files. Repeated attempts by the Department to locate the file were fruitless.

Chairman NUNN. Was that an exception or were there a number of files missing?

Mr. BUCKLEY. Senator, as we testified in 1990, the certification and eligibility files at that time, there were literally hundreds of schools which the files were lost or had been misplaced. At that point the two offices were not communicating certification——

Chairman NUNN. What two offices?

Mr. BUCKLEY. The certification office and the eligibility office.

Chairman NUNN. Both in the Department of Education?

Mr. BUCKLEY. Yes. Since then, the Department has reorganized that effort and put all those people together and is moving all those files together. I understand that every day as they go through the files and put them in a new filing cabinet, they are finding files they have been missing for at least a decade. So maybe Sara Schenirer's file will turn up some day. It could be just misfiled.

We are unable to determine how Sara Schenirer Teachers Seminary was deemed eligible under the law, because it was not licensed or recognized by the State of New York; did not confer degrees; and its courses were not designated to prepare students for gainful employment in their recognized occupation. The Department apparently evaluated the programs and made a determination that "these teacher training seminaries are comparable to similarly accredited bachelor-degree granting institutions in the United States." We note, however, that Sara Schenirer does not confer degrees. Regardless, the third and final gate was open.

On December 3, 1988, the Accrediting Council for Continuing Education and Training, ACCET, of Richmond, Virginia, accredited Sara Schenirer Teachers Seminary, ending the 3IC debate for the school.

Mr. Chairman, the Staff points out, however, that the Department use the accreditation as part of its rubber stamp approval process. The Department did not know until 1993 that ACCET accredits avocational schools, such as this one.

According to its course catalog, Sara Schenirer Teachers Seminary operates the following programs—Judaic studies certificate program at 64 semester hours; Judaic culture certificate program at 64 semester hours; and offers Judaic culture diploma program at 56 semester hours. In addition, the school has operated a special education program and had a foreign branch in Israel, Seminar Yerushalayim, a full-day seminary for female, American students.

As is evidenced by the volume of Pell Grants, the seminary's enrollment started to build in 1988 and then grew dramatically. We believe that most of this growth can be attributed to the immigrant culture program which offers the Judaic culture certificate and diploma programs.

According to the school's catalog and filings made with its accrediting body asset, the immigrant culture program is designed to educate recent immigrants. "The American scene was in recent years suddenly faced with the arrival of an influx of immigrants from such countries as Russia and Iran, where individuals of Jewish faith have not had the opportunity to study and practice their rich heritage and culture. As they arrive on the free shores of the United States, their interest to learn about the history, culture and intellectual underpinnings of their religious heritage is suddenly awakened. Sara Schenirer Teachers Seminary, in response to this need has created the immigrant culture program, the purpose of which is to fill this burning intellectual and spiritual need through a program of academics designed to mold the student culturally and acclimate him to the American-Jewish scene." [1]

While the Staff certainly acknowledges a person's right and choice to study his or her religious heritage, we strongly question whether these types of nonvocational, non-degree granting programs satisfy the intent or policy goals underlying the Federal Pell Grant program. We question the fact that the Federal Government paid Sara Schenirer millions of dollars in the last 2 years to put this program on, a program which pays its students to attend its classes, in which for those who complete it, result in a certificate that has no recognition or marketability.

By offering the English language lessons to Russian immigrants in the Bronx, the school came to the attention of Don Bluestone, the director of a community center there. The Staff interviewed Mr. Bluestone who subsequently provided the Subcommittee with an affidavit which the Subcommittee is releasing this morning. Mr. Bluestone testified [2] that some of the services offered at his community center are specifically designed to help recent immigrants in getting settled in the United States. His center's Russian-Jewish settlement and outreach center provides help with apartments, jobs, social clubs, child care and training. The center offers free classes in basic English to immigrants.

Bluestone said that in 1991, his center was providing free English classes to approximately 100 Russian immigrants. He used volunteer instructors to teach basic survival English to the Russians, because there was and is a real need for it in the community. At that time, Bluestone spread the word that he needed more volunteer English teachers. Bluestone stated that Sara Schenirer Teachers Seminary responded to the call. Bluestone said that an employee of Sara Schenirer called him and told him that Sara Schenirer would teach English to the immigrants and using Government student aid provide the students with a stipend. A cash payment of $400 per year, per student to attend. There would be no cost to the student or the center and no cost for Sara Schenirer to use the center's facilities. In fact, Sara Schenirer would be receiving Federal Pell Grant funds for this service.

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[1] Exhibits Nos. 15 and 16 retained in Committee files.
[2] See Exhibit No. 30 on page 264.

The Federal Government would now be paying $1,200 per student, per semester for the same course Bluestone had previously provided at no cost on a volunteer basis. Of that amount, $1,200, $200 was paid to each student per semester. In the fall of 1991, Bluestone said Sara Schenirer enrolled hundreds of Russian immigrants in English classes at the community center. Employees assisted the immigrants, many of whom were elderly and not very well educated in filling out forms, including Federal Pell Grant applications provided by the representatives of Sara Schenirer.

I just want to point out here that the Federal Pell Grant student aid application, for that matter, is entirely in English. There are no Russian translations of it available, and all of the catalogs and advertisements that we have seen from Sara Schenirer have been in English.

The students were happy with the instruction and very happy that they were being paid to attend the classes. Bluestone said, however, that things changed. He began hearing through his employees that some of the immigrants were confused. Upon inquiry, Bluestone said that he had learned that Sara Schenirer was teaching not only English but Hebrew as well. He wondered how elderly Russians were supposed to learn two very distinct and complex languages at the same time. His concern grew into alarm when he was told that the students were not only being taught about Judaic history, but were also being forced to convert to orthodox Judaism. Bluestone stated he raised these concerns with the instructors and things appeared to return to normal. Bluestone said that the semester ended in the summer of 1992 without incident.

In the fall of 1992, Bluestone began to wonder why Sara Schenirer had not returned to offer the English classes. He learned that the school had moved its English and Judaic studies programs to a synagogue and then later to another community center in the Bronx. Bluestone told the Staff that he thinks that Sara Schenirer is exploiting the Russian immigrant population by using Federal Pell Grants to pay the immigrants to attend its classes.

Senator COHEN. Can I interrupt you? I do not think he is exploiting the Russian immigrant classes; I think he is exploiting the Federal taxpayers. This is another form of welfare that is being extended to new immigrants coming into the country that is not being supervised by HHS and it is not being supervised by the Department of Education.

Chairman NUNN. And the worst of it is the Russian immigrants are not getting most of the money. Most of the money is going to unknown, at this stage, sources, except what we have seen on the charts. If it was going to be a welfare program, you could do it much more efficiently with much more help to the beneficiaries than the way this one is being ripped off.

Mr. BUCKLEY. Yes, sir, I would agree, at a very high cost. We contacted several schools in the Washington, D.C. area which offer training to immigrants and people that want to learn English as a second language. It costs $8 an hour to attend classes in English. If you want a private tutor, one-on-one, it is only $30 an hour. So for $2,400 you could get, I would assume, quite extensive education in the English language, instead of what these people are getting here which is just survival English.

The Staff has learned that Sara Schenirer's practice of paying students to attend classes is not unique and may be a growing phenomena in the New York area. The General Accounting Office, using the Pell Grant data for 37 Judaic schools in the New York area, found over 140 students who had received Pell Grants from four or more schools from 1987 to 1992. The Staff considers this rather odd, because as best we are able to determine these schools offer basically the same type of programs and classes—English as a second language and Judaic history. For the same period, 1,335 students had attended three or more schools. The data appears to disclose that the practice is not limited to recent Russian immigrants, since for some of the schools, the base appears to be made up of members of the ultra-orthodox local Jewish community.

We also note in detail in our full statement. Our interviews of some of these students disclosed inconsistencies between their academic and financial aid files at these different institutions. Moreover, some of these students told us that they had never heard of nor attended some of the schools for which, according to the Department of Education records, the schools received Pell Grant funds in their names. We interviewed several former students of Sara Schenirer Teachers Seminary who confirmed that they had paid no tuition to attend the school, but had received payments to attend classes. Several students stated that they needed the payments to survive financially and some indicated they would not attend classes if they were not paid to do so. This practice seems to guarantee, not only attendance, but students who return for another semester. And who would not?

The Staff did interview two students of Sara Schenirer who stated they had attended the school. One even knew that the Federal Government had paid for his tuition. What remains unexplained is why or how students appear to attend so many different schools to learn the same subjects. The Staff feels that the Pell Grant program contains a systemic weakness that awards this bizarre practice. There is no limit on the number of years for which a student may receive a Pell Grant. That is, as long as a student never receives an undergraduate degree, has a financial need and attends an approved institution, the student may receive Pell Grants forever.

The Government assumes students want to graduate. We do not assume a student would go from school-to-school taking the same courses over and over again. That alone, however, does not explain how these students knew to bounce from school-to-school. We did not know if these schools were collaborating, shifting their students from school-to-school or if the students somehow shopped from school-to-school to find out who was paying the largest stipend.

The General Accounting Office learned, however, that some of the schools used Pell Grant brokers to enroll students and we were told that these independent salesmen would broker-student biographical enrollment information to the highest bidding school.

Mr. Chairman and Senator Cohen, we realized that many questions pertaining to Sara Schenirer's participation in the Federal Pell Grant program remain unanswered. Given the wholesale lack of cooperation by the school during this inquiry and the abuses we have uncovered, the Staff recommends that the Department of

Education bar the school and its officers and directors from participation in the Pell Grant program and refer the matter to the Inspector General, the FBI, and the Internal Revenue Service for further investigation. Mr. Newton will now give a summary of the Staff's investigation of Molloy College.

TESTIMONY OF SCOTT E. NEWTON, INVESTIGATOR, PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NEWTON. Senator, as part of the Staff's review of the Pell Grant program, we examined the rapid growth in recent years of Pell Grant funding at Molloy College, a private, nonprofit college in New York State. Molloy was founded that in 1955 and is located in Rockville Centre, Long Island, New York. Molloy is a college in a traditional sense of the word, with a campus, honor societies, and athletic programs. The college offers over 30 undergraduate degrees and a master of science degree in nursing. The school gained accreditation from the Middle States Association of Colleges and Secondary Schools in 1967. Enrollment has grown from around 40 in 1955 to over 3,000 undergraduates in 1992.

Beginning in 1987, the school began offering what the college called the associate degree program for recent immigrants at over 40 independently operated locations in the New York City area. This program awards an associate's degree in liberal arts and caters primarily to Russian immigrants. The associate's degree in liberal arts is offered at the main campus, as well, and normally requires 2 years to complete. The associate degree program for recent immigrants requires 3 years to complete the same framework of courses, because of the addition of two semesters of English as a second language.

Molloy's enrollment doubled in a 6-year period, primarily as a result of the influx of students enrolling in the associate degree program for recent immigrants. Moreover, the school's receipt of Pell Grant funds increased substantially, tripling in just 2 years, as a direct result of the development and growth of this program.[1] The Department of Education and the New York State Comptroller's office, on behalf of the New York State Education Department, conducted audits and reviews of this particular program which raised a number of questions concerning the school's participation in the Pell Grant funding program.

The New York State Education Department, within the past 2 weeks, has found the associate degree program for recent immigrants significantly different from the State approved program on campus, leading for the program being declared ineligible for student financial aid funds. If this finding is upheld, Molloy faces having to repay all or part of the $16 million in Federal and State tuition assistant grants disbursed to the associate degree program for recent immigrant students.

The Staff undertook its own case study of Molloy's associate degree program and found the following. Rapid growth of the off-campus associate degree program for recent immigrants led to large increases in the amount of Pell Grant funds disbursed to the school and provided significant profits for the school and the organizations it contracted with. Promoters of the off-campus location offering the associate degree program for recent immigrants sought out and associated themselves with Molloy College in order to obtain eligibility for Federal and State financial aid and by using the eligibility previously granted Molloy by the Department of Education.

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[1] See Appendix I to Staff statement, page 193.

The associate degree program for recent immigrants was specifically designed to ensure that students paid no money for the education, other than that which the Government would provide under the grant programs. Tuition not covered by Federal and State grant programs was waived by Molloy College, unlike the associate's degree offered on campus where full tuition was collected. Students were recruited and were paid to attend the program in exchange for signing up for financial aid. Employees of Molloy College had minimal control of or involvement in the actual operation of the off-campus associate degree program for recent immigrants. The off-campus locations to date have primarily given English language classes to Russian immigrants, some of whom we believe have little or no expectation of receiving a degree.

Despite its lack of control or involvement in the actual operation of the associate degree program for recent immigrants, Molloy received a set portion of the Federal Pell Grant funds disbursed for students attending the off-campus classes. Molloy College lacked adequate oversight over the associate degree program for recent immigrants, leading to many of the findings listed by the State and the Department of Education in their respective audits and reviews.

The Middle States Association of Colleges and Schools failed in its responsibility to assure the quality of education of the associate degree program for recent immigrants and to provide an adequate review process. Sister Patricia Morris who was the vice president of academic affairs at Molloy College, acting as the school's contact relative to the development and oversight of the associate degree program for recent immigrants, stated that the program began in the fall of 1987 after Rabbi Joseph Gelman approached Molloy for their sponsorship in offering their associate degree through the two schools he represented—the Long Island Seminary and the Academy for Jewish Education.

The first two locations, the Long Island Seminary and the Academy for Jewish Education initially enrolled 44 students. From this modest start, the program mushroomed into over 40 sites with nearly 1,800 students in just 5 years. While there are over 40 sites, Molloy contracts with 10 organizations which manages these various sites on their own. As the off-campus program grew, so did the amount of Pell funds Molloy received. As can be seen in the chart on my right, Pell Grant payments for all students enrolled in Molloy actually fell slightly during the period covering the 1979–1980 to 1986–1987 school years. Ensuing years saw the disbursements increase 10 times in size from just over $328,000 in 1987–1988 to nearly $3.4 million in 1992 and 1993. The amount of Pell funds provided nearly tripled in the 1990–1992 to 1991–1992 school years alone.

Additionally, a review of the figures show that the associate degree program for recent immigrants received 25 percent of all Pell disbursed in 1987, but by 1992–1993, this figure had grown to over

83 percent. This is significant as the enrollment of the associate degree program for recent immigrants roughly equaled the entire on-campus enrollment for Molloy College.

Molloy College's total revenues in income from tuition and fees also increased as a result of the growth of the program. This chart[1] shows that the Molloy's revenues increased dramatically after 1990. The amount of Molloy's total tuition and fees which were generated solely by the associate degree program for recent immigrants, grew from less than 1 percent of the total in 1987–1988 to 14 percent of the total in 1991–1992. Total revenue also climbed from less than 1 percent to 10 percent in 1991–1992.

The Subcommittee reviewed the off-campus contracts[2] for each of the organizations which associated with Molloy since the start of the program in 1987. This review showed that Molloy and the organizations they contracted with to offer the associate's degree program for recent immigrants, delegated all responsibility for conducting classes, establishing locations for classrooms, hiring of teachers and recruitment of students to the contracting organizations. While Molloy College collected a fee-for-student for providing administrative services for financial aid and student transcripts and minimal academic oversight and review.

They also specifically designed the program to accept as payment only on what Federal and State grant programs would provide in contrast to procedures on campus where students are expected to pay the full cost of tuition. By charging the students in the associate degree program for recent immigrants the same tuition as students attending on campus and then accepting only what grants the students could receive, Molloy College waived nearly 40 percent of the tuition owed them. This procedure was not used carte blanché for students attending Molloy's main campus.

The fees and tuition charged by Molloy were the same for all programs and supposedly were paid by all students, both on and off campus. But instead in the case of the associate degree program for recent immigrants, the students paid no money at all, and, in fact, were paid to attend. According to Anthony Riso, the vice president for business and finance at Molloy, the college specifically designed the program so that students would not have to pay any personal cash for tuition and fees. When asked if there were any cash-paying students of the associate degree program for recent immigrants, Riso replied that there were not.

Each student who enrolled in this program filled out forms for either Pell Grants or New York State Tuition Assistant Program funds, commonly known as TAP funds, or most often both. Since the students were primarily Russian immigrants who had little or no income, other than that which they received from other public assistance programs, they were often eligible for full Pell Grants and TAP funds. Whatever Pell and TAP funds the student received were applied to his or her account for the school.

In 1992–1993, Molloy would keep $750 per student per semester for the cost of administering the program and the remainder would be given to the organizations. This remainder did not nearly cover the total tuition and fee figure which for 1992–1993 would have been $7,990 per year. This gap was written off or waived by Molloy as Jewish seminary costs and ultimately referred to as scholarship assistance or off-site institutional aid. Whatever portion, however large of the tuition that was not covered by these Federal and State grants, was waived.

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[1] See Appendix J to Staff statement, page 194.

[2] Exhibit No. 54 retained in Committee files.

To the knowledge of this Subcommittee, neither Molloy nor the organizations that they contracted with, ever took any actions to collect any personal funds from the off-campus recent immigrant program students. The Government was the sole payer and supporter of this program to the deep and endless pockets of the Pell Grant program. The figures involved for the amount of Pell and TAP received by Molloy and the organizations in the amount of tuition waived by the associate degree program for recent immigrants were staggering.

This chart shows that in 7 school years encompassing the 1987–1988 to 1992–1993 period, Molloy charged $27.6 million for the students attending the associate degree program for recent immigrants. Over $6.6 million in Pell Grants were awarded to the students who enrolled in this program. TAP funds provided an additional $10 million. The amount of tuition waived by Molloy equaled $11 million. And this figure was reached by subtracting the amount of Pell and the amount of TAP from the total tuition and fees that Molloy supposedly charged. This represents nearly 40 percent of the total.

Of the Pell and TAP funds that were disbursed to these students, Molloy received 31 percent of it in the form of the fee, $750 per student per semester fee, that they collected for $5.1 million. The individual organizations also grossed large amounts of money. Two of the organizations received $4.6 million and $2.4 million, respectively, and both of these organizations started in 1989 and the other in 1991. None of the amounts of the money that these organizations grossed would have been available to them had they not had access to Federal Pell and State TAP funds through Molloy's already accredited and approved program.

Our review revealed that students in the associate degree program for recent immigrants were paid for attending classes. With the exception of one contractor, all sites provided stipends to their students. These stipends were in the form of payments for each semester of attendance. These payments ranged from $200 to $400 per person per semester. And the funds were paid out of the Pell and TAP fund monies received by Molloy.

The Staff learned that the Russian immigrants needed these stipends to survive in the New York City area; that the students and their spouses enrolled solely to receive the money; and that the going rate for stipends was well known on the street; and that the students were well aware of what they should receive when they enrolled in these classes. Those people and Molloy and these organizations who promoted these programs were clearly aware of this.

This chart[1] shows an advertising poster from the Haber House Community Center, a site under the Jewish Institute for New Americans was contracted under Molloy's program. As can be seen, nowhere does it say anything at all about Molloy College, liberal arts or an associate's degree program for recent immigrants. Instead, it advertises for adult English classes and prominently mentions the fact that stipends are available. The Staff believes that many of the students enrolled in this associate degree program for recent immigrants, had no knowledge of or intent to participate in any degree-granting program.

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[1] See Appendix K to Staff statement, page 195.

The Staff performed a review of the number of students who possibly could have graduated from this college. Many of the students who enrolled simply have not had enough time, based on the length of the program, to graduate. But of those who had, 277 who possibly could have, 69 graduated for a 25 percent graduation rate. The Staff was also concerned about the quality of the education that was being provided off site. And it did not appear to approach what the Subcommittee would describe as college level associate's degree work.

The Subcommittee found tests that were simply color wheels where students filled in the appropriate colors as requested. A site where the director estimated that 50 percent of the classes were taught in Russian, negating it seems the rationale of providing two semesters of English as a second language at the very beginning of the program. A site where the mentoring method was used requiring only that students attend five times a semester and assigning a mentor to oversee their self-study of the material. This was not an approved method of offering the course, according to the New York State Education Department.

We also found elderly students—some as old as 87—and one class where the instructor said that all the students had had strokes. She said they could internalize the material, but not express it well. The oversight of the program by Molloy centered around ensuring that administrative requirements were met and did not include any in-depth review of the quality of the education or the methods used to enroll and attract students.

The Staff found that although Molloy said they visited each site every year, at least one organization stated Molloy had visited only two of their locations and had not visited the rest.

Chairman NUNN. Two out of how many?

Mr. NEWTON. That particular location had eight sites, sir. Although Molloy stated they require all instructors to have a master's degree in the area in which they study, some resumes which were reviewed by the Staff did not indicate that the instructors met this requirement. The New York State Education Department specifically cited three examples in their review of the program which they held earlier this year. Molloy College never performed any formal internal review of the associate's degree program for recent immigrants, even though its size eventually equaled that of its total on-campus enrollment.

As far as recruiting goes, the Staff found that one site used a recruiter and we also had the example of the poster which does not indicate that they were recruiting from Molloy's program, but instead were advertising for English as a second language. And we have also heard from Mr. Buckley in the use of stipends, and this also was being done at Molloy's program.

A review done by the Middle States Association of Colleges and Schools, their accrediting body, addressed the program, praised it, and offered some concerns. The reports stated that the program was a financial boom to the college and that the new off-campus programs increased revenues and "allowed the college to transfer a substantial amount to reserve accounts." The report also expressed concern about the monitoring and standards of the programs. And while the report showed that the Middle States had expressed concerns about the standards, it also recognized the financial windfall the program represented.

Chairman NUNN. Can you tell us or is there any indication how much was being made by Molloy in terms of profit? Can you compare the cost to the receipts under this program?

Mr. NEWTON. It would be difficult to break out the cost solely for the Molloy's program with the exception that when I talked to Mr. Riso, he mentioned that in order to handle the increased workload that these students represented, he hired the equivalent of two and one-half additional staff persons. He figured that this cost the college approximately $60,000 to $70,000 a year. They took in on the fee-for-student that I mentioned $5.1 million. So the program existed only since 1987. So it appeared that they would have——

Chairman NUNN. The cost of $60,000 that you know of and an income of $5.1 million?

Mr. NEWTON. Yes, sir.

Chairman NUNN. And that is because Molloy really did not do anything on this program on campus—all of it was done by others; is that right?

Mr. NEWTON. Yes. The only thing they did was process the financial aid paperwork and also handle the transcripts.

Chairman NUNN. In effect, they were doing some paperwork and they were lending their name?

Mr. NEWTON. Yes, sir. The Middle States report that I mentioned[1] did not express any serious reservations about the nature of the associate degree program for recent immigrants. And one reason for this is that amazingly the review team——

Chairman NUNN. Who is this group? Is this an accrediting group?

Mr. NEWTON. This is the accrediting body that Molloy gains their accreditation through.

Chairman NUNN. That the Department of Education relies on?

Mr. NEWTON. Yes, sir. One reason for this is that the review team did not visit one site, speak with one student, site coordinator or teacher associated with the program. In a letter to the Subcommittee——

Chairman NUNN. They did not visit a single site; they did not speak to a single student?

Mr. NEWTON. No, sir.

Chairman NUNN. How many were on the review team?

Mr. NEWTON. I am not sure exactly, but there were probably five or 6, based on the cover of the report that I looked at.

Chairman NUNN. They did all their work at the college itself?

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[1] Exhibit No. 65 retained in Committee files.

Mr. NEWTON. They were reviewing the whole college, sir, and they relied solely on the self-study report that Molloy is required to prepare for in preparation of the Middle States coming down to speak with them. Middle States, in a letter to us when we questioned them on this, stated that the team did not find any outstanding faults with the academic integrity of the program.

The Staff fails to understand how the review team could possibly provide a comprehensive report on Molloy's ability to run an effective program, such as the associate degree program for recent immigrants, without having visited the sites, students, site administrators and teachers, and questions the reliance on a self-study report for a program which doubled enrollment and provided significant funding.

The Staff reviewed two separate reports on this program, prepared by the New York State Comptroller's office and the U.S. Department of Education. Both of these reports questioned the eligibility of the program to receive Pell and TAP funds. They requested the New York State Education Department, as the responsible office, to determine if this associate's degree program for recent immigrants, was the same program as the State approved an eligible associate's degree offered on Molloy's main campus. The on-campus program, as required by New York State law, is approved by the New York State Education Department. The off-campus associate degree program for recent immigrants by purportedly offering the State approved associate's degree, qualified for State and Federal assistance, despite significant differences in the two programs. If it were not eligible, then all Pell and TAP funds disbursed for this associate degree program for recent immigrants would have to be repaid by the college.

Chairman NUNN. Let me ask this question. Molloy has an on-campus program?

Mr. NEWTON. Yes.

Chairman NUNN. And they have an off-campus program; and they have this AA degree program for recent immigrants; is that separate from their normal off-campus program?

Mr. NEWTON. They have a number of off-campus programs. Some of them offer a nursing degree. The off-campus associate degree program for recent immigrants is modeled after the on-campus associate's degree. It is supposed to offer the same courses and supposed to have the came curriculum. But the reviews that I mentioned found significant differences in the two programs.

Chairman NUNN. Are you going to tell us the differences?

Mr. NEWTON. Yes, I am.

Chairman NUNN. OK.

Mr. NEWTON. In January of 1993, the Department of Education conducted their program review of Molloy's program and they cited 11 findings, including a lack of administrative capability, inadequate basis for admission of students, and incorrect Pell Grant cost of attendance. Their report states that it contained serious findings regarding the school's administration of the Title IV student assistance program. It also says it is this office's assertion that the programs offered at Molloy's extension sites are not eligible programs, and that they are seeking an opinion from the Commissioner of Education on the matter.

In May of 1993, the Office of the Comptroller in the State of New York issued their report to Molloy regarding their audit on the associate's degree program for recent immigrants. Their audit report stated that "students followed a course sequence that require 74 credits for graduation. Molloy's catalog states that the satisfactory completion of 64 credits is required for graduation within an associate's degree in liberal arts. Thus, these students are pursuing certain courses which are not applicable to the approved program." It also states that none of Molloy's programs were approved by the State Education Department for instruction in the mentoring mode. Finally, it says that the State Education Department is currently reviewing arrangements with the external organizations. And if these arrangements with an off-campus locations are determined to not be consistent with New York State regulations, the TAP awards paid during this audit period at these locations will be disallowed.

Donald Nolan, who is the Deputy Commissioner for Higher Education and Professional Education for the State Department of Education in New York made a preliminary finding that the associate's degree program for recent immigrants was substantially different than the on-campus approved program, and recommended that Molloy put the associate degree program for recent immigrants on hold.

And finally, in a letter dated September 30, 1993, they made a final determination that the program was, indeed, ineligible. And he stated and I quote, "Based on this review, I note differences in courses taken, the mentoring format offered at some locations, the nature, status and evaluation of faculty offering the program, the advisement of students into a locked step program of 12 credits per semester, resulting in a program which requires 3 years rather than 2 years for completion, a treatment of transfer students, the admission requirements and procedures, and the available student support services. I must concluded therefore, that the program which Molloy was offering at off-campus locations is not the associate's degree program in liberal arts which is registered by this Department."

Molloy College has indicated to the Subcommittee that they strongly disagree with and intend to fight the finding of the State. They also pointed out to the Subcommittee that they have had a lengthy discourse with the State concerning the curriculum and modes and instructions of this program as far back as 1989. Molloy contends that they never received any guidance on these matters and that if they had, many of the problems cited above, could have been corrected and/or avoided.

The Staff concludes, Senator, that Molloy College intended to offer their associate degree program to recent immigrants. However, by delegating a large portion of the responsibility for conducting the program to a number of off-campus organizations and by not conducting adequate oversight, they instead provided an avenue for wholesale abuse of the Pell Grant program. Many students attended classes, not for the purposes of obtaining some educational goal, but rather because they were paid to do so. In fact, many students attended only courses in English as a second language. The operating costs for these programs were minimal, both to Molloy and the off-campus organizations operating these programs. Based on our review, we believe that the great bulk of Pell Grant funds disbursed for this program did not subsidize the cost of providing a quality education for needy and deserving students, but instead constituted substantial, and for the most part, unearned profits for both Molloy and the off-campus organizations.

Chairman NUNN. Thank you very much, Mr. Newton. Let me ask each of you, starting with you, Alan. You testified you encountered problems in finding people wiling to cooperate. I would like to ask each of you to detail the problems that you had in trying to get people to cooperate.

Mr. EDELMAN. Mr. Chairman, I would say that the lack of cooperation that we have encountered in this particular investigation, both from the schools and from the community, Hasidic community in general, has probably been unprecedented. While we have faced barriers in previous investigations, I do not think ever before have we really encountered the level of noncompliance and lack of cooperation as we have in this particular case. I will document for you some of the problems that we had with Bais Fruma. And some of the other schools, I can let Mr. Buckley tell you about the problems he had with his particular school.

We served a number of individuals——

Chairman NUNN. Let me make a distinction here. I believe that Molloy did cooperate; is that right?

Mr. NEWTON. Yes, sir, they did.

Chairman NUNN. I think that ought to be noted for the record.

Mr. NEWTON. Yes, sir.

Chairman NUNN. You did not have difficulty interviewing people at Molloy or getting records; is that right?

Mr. NEWTON. Not from Molloy, from the organizations. When we went out to the organizations they contracted with, they were slow in providing records and were not completely accurate with their answers.

Chairman NUNN. Right. But Molloy, itself, cooperated?

Mr. NEWTON. Yes, sir.

Mr. EDELMAN. We had served a number of depositions, subpoenas, on employees and members of the administration of Bais Fruma, including Rabbi Simche Waldman who is the administrator, the listed administrator for Bais Fruma. His deposition was originally scheduled to take place during the month of July. In response to that subpoena, we received word from counsel for Rabbi Waldman that he could not attend his deposition at that time, citing the Jewish month of Av, as the reason why he could not participate in any legal proceedings. It was represented to the Staff that that particular month or time period was a period of mourning on the Jewish calendar and that it is considered an inappropriate time for members of the Jewish faith to participate in any type of legal proceedings. The Staff, after some discussions back and forth with counsel for Rabbi Waldman, the Subcommittee ultimately acceded to his request and postponed his deposition until a date after the conclusion of the Hebrew month of Av.

When the Subcommittee then attempted to reschedule the deposition for the date of September 14, 1993, we again received a letter from Rabbi Waldman's attorney stating that he could not attend at that time because that particular date fell during the time period of repentance, just prior to the Jewish New Year holidays. Again, the Subcommittee acceded to the Rabbi's request in respect of his religion and we postponed his deposition and we rescheduled it for September 21, 1993, after the New Year holiday. In response to setting that new date, Rabbi Waldman's attorney once again contacted the Subcommittee and this time informed the Subcommittee that his client, if called before the Subcommittee to be deposed, would refuse to answer questions and would assert his constitutional privileges under the Fifth Amendment against self-incrimination.

We ran into similar problems in attempting to depose other employees of Bais Fruma. We served deposition subpoenas on Eliezer Herbst, who is Bais Fruma's chairman of the board; Yitzchak Klein, who is Bais Fruma's treasurer; George Goldberger, who is Bais Fruma's financial aid director; Sandy Gross, the school's tuition officer; Charles Ettinger, the school's registrar; Rabbi S. Kohen, the dean; and Tovia Rotenberg, the academic director for the school. Each and everyone of these individuals asserted their Fifth Amendment privileges in response to the Subcommittee's subpoena.

We have also had many problems in terms of document production. Bais Fruma was originally served with a document subpoena in February of 1993, and as of today there are still numerous categories of documents which were called for in that subpoena which the Staff has not received any production on, despite almost daily conversations between members of the Staff and attorneys for Bais Fruma during the last 5 to 6 weeks.

In addition, by a letter dated August 2, 1993, the Staff posed a number of questions concerning documents which had been produced and requested other documents from Bais Fruma and the response to that letter only came into the Subcommittee last week. And even that response was not a complete response. There are still areas which were requested which are outstanding from that letter.

Mr. Buckley can explain some of the problems we encountered with some of the other schools. I would just like to also state though, one other major problem which we encountered and that was the apparent issuance of an essence of religious edict by the rabbinical authorities within the Hasidic Movement forbidding members of their community from talking to us or cooperating with us in our investigation. In August of this year, we met in Brooklyn with a panel, so to speak, of 10 rabbis and Jewish legal scholars to discuss our investigation and for them to explain why, under their interpretation of Jewish law, members of their community could not cooperate with us. It was explained to us at that meeting that under the interpretation of these rabbis, a member of the Jewish community was prohibited from giving information to secular authorities, if that information could in some way either directly or indirectly, place a fellow Jew in jeopardy. And on the basis of that, they had, in essence, issued an edict within the community that the members of the community not cooperate with our investigation.

Chairman NUNN. That is not a Fifth Amendment assertion; that is not self-incrimination; that is refusal to cooperate or testify when your testimony might damage others?

Mr. EDELMAN. Someone else, that is correct.

Chairman NUNN. Have you ever heard of any kind of interpretation of the Fifth Amendment that stretches that far?

Mr. EDELMAN. Not of the Fifth Amendment, no, sir. And in fact, their interpretations were not based on any civil law doctrines; it was solely based on their interpretation of Jewish religious law. And in fact, a number of the individuals which we attempted to depose responded, in response to our attempts, that after having discussed the matter with their rabbis, they could not cooperate with us in terms of providing testimony in the deposition form or in any other form. I believe that this edict was probably the biggest barrier to our ability to obtain information. And I think the Staff probably wonders whether in the absence of such an edict, individuals who did take the Fifth Amendment, might not otherwise have been willing to cooperate more with the Staff.

Chairman NUNN. Thank you. Mr. Buckley, do you want to add to that?

Mr. BUCKLEY. Senator, I do not know if you need me to. I think Mr. Edelman gave you the essence of what we found, the problems that we faced. Two examples on schools—the school that the General Accounting Office focused on, Beth Rochel Seminary, document production was painstakingly slow. Despite the fact that we subpoenaed the school for almost all of its records in February, in scheduled compliance, it would take them months or a month and a half to give us a document. We would review it and find out it was not exactly what we wanted and have to go back and ask for other documents. They would not respond to interrogatories, of course, so we had to continually ask for document production. They would not produce any documents at all while the administrator, Jacob Rosenbaum, was out of the country. That was after he took the Fifth in the deposition before the Subcommittee Staff.

One school, Toldos Yaakov Yosef was a relatively small school. We were unable to investigate it at all. We went to its address the Department of Education had and we found a boys elementary school with an office that said Toldos Yaakov Yosef Seminary on the door. Inside the office area were a couple of young ladies and a couple of gentlemen. They said that they knew nothing about the school. We pointed out that the door had the name of the school on it. And they said, "well they have been gone for a little while. They still pick up their mail and phone messages." So we could not even find anybody there to serve a subpoena on for an hour or so until someone finally volunteered to serve the subpoena for the Subcommittee.

And that one incident is probably the single incident of any cooperation at all that we have received. It went downhill from there. That school could never locate and produce any of its documents, despite the fact that the Federal Government sent $11 million in Pell Grants to that school. The attorney representing the institution said that the president had had a stroke and he was the only one that could tell anybody where the files were, despite the fact that their catalog lists a board of directors and several other employees, and financial aid officers. We attempted to locate the financial aid officer and other employees. That search was fruitless. It was not in the phone book. We have no idea if these people even exist. As a matter of fact, we know that a couple of people listed in the catalog as officers of the school do not exist, because the attorney said, we have never heard of these people; do not know who they are. The chairman of the board, when we finally said, OK, we are going to have to depose the chairman of the board to get to the bottom of this, his counsel indicated that he would take the Fifth to any and all questions the Subcommittee might have.

So those are just a couple of other examples[1] and I already detailed the problems we had with Sara Schenirer Teachers Seminary.

Chairman NUNN. Let me move to another subject. In July of this year, I wrote a letter to the Secretary of Education, Richard Riley and asked him to provide the Subcommittee with a number of students who had received Pell Grants for more than 5 consecutive years for the period 1982 to 1992. Did you receive a reply? Did we receive a reply to that letter, and if so, would you describe it?[2]

Mr. BUCKLEY. Senator, the Secretary responded on October 13 of 1993 and answered your questions to the best of their abilities. Some areas they were not able to answer because they do not have the data or could not manipulate the database to come up with the answers. But you had asked for the number of students who had received Pell Grants for more than 5 consecutive years during the period 1982 to 1992, and they found that there were 162,576 recipients who had received grants for between 6 and 10 consecutive years. Now if somebody did not go 1 year and came right back in and went another 5 years that person would not be included. We are only dealing with consecutive year figures here. The amount of expense for these students was in excess of $1.5 billion.

You also had asked for recipients of Pell Grants for more than 10 years.

Chairman NUNN. Ten years, right.

Mr. BUCKLEY. There were 4,095 total recipients who had received $57,133,000 million for those consecutive years. Of them there were 2,594 who had received grants for 11 consecutive years.

Chairman NUNN. This does not count people that might have been in the program for 1 year and skipped a year and then come back a year and so forth? Do they have data on that?

Mr. BUCKLEY. The Pell Grant files are massive. What did we say 55 million people have received Pell Grants. We are talking a huge database that they had to go through and that is what really took a lot of time.

Chairman NUNN. Have they gotten that computerized?

Mr. BUCKLEY. It is all computerized.

Chairman NUNN. They have got it all on computers now?

Mr. BUCKLEY. Yes, sir. They do not have the student loan data system in effect yet. This is just Pell Grants.

Chairman NUNN. Pell Grant is computerized?

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[1] Exhibits No. 85 and 86 retained in Committee files.

[2] See Exhibit No. 84 on page 343.

Mr. BUCKLEY. That is right. So they cannot compare loans to grants. They just have the grants computerized.

Chairman NUNN. There is no correlation? They do not have any way of comparing loans to grants, except——

Mr. BUCKLEY. Not right now. I am sure they hope to do that some day, but they certainly cannot now.

Chairman NUNN. I understand one person, I believe Senator Cohen mentioned this morning, has received Pell Grants in excess of 17 consecutive years. Did you look into that particular case?

Mr. BUCKLEY. Yes, we did, sir. At your request, we obtained the name of that individual. I spoke to the colleges. She attended three separate colleges. A couple were junior colleges, and one was a 4-year school. She has received Pell Grants for at least 17, possibly 18 consecutive years in excess of $19,000 in Pell Grants. In addition, I spoke with her as well. She said that she had—it is a rather sad case. She is a single parent of three who has raised her kids, worked in bakeries in blue collar jobs, and attended classes largely at night. She has had a terrible time fulfilling the requirements of the courses. The majority of them, she has gotten withdrawals or failures or D's in; has not had satisfactory academic progress which is a requirement of the statute.

In addition to Pell Grants, she has received State tuition assistance and is amassed over $22,000 in federally guaranteed student loans. I would say based on the work we have done, I think we might as well just write that off. The Federal Government gave $19,000. We have guaranteed $22,000. She is now raising her five grandchildren and is unemployed, while her three children go to college, using aid as well. So I do not know if there is any hope that we will get back the $22,000 guaranteed student loans.

Chairman NUNN. Is there any kind of system in the Department of Education that would show when some student—maybe in this instance, I am not sure, was trying hard, but had been in the program a long, long time and that some counseling might be in order or someone might try to help them get into the right slot, so that they could achieve some skilled training or education? Is there any kind of system like that?

Mr. BUCKLEY. We leave that up to the schools. The Federal Government requires that you have satisfactory academic progress, as Senator Pell testified this morning. They just cannot take classes because they want to take classes. There has to be a goal in sight and part of a program.

Chairman NUNN. Is that not supposed to be satisfactory educational progress?

Mr. BUCKLEY. Right. Now we leave that up to the schools to monitor.

Chairman NUNN. That is up to the schools?

Mr. BUCKLEY. Yes.

Chairman NUNN. Do they certify that, if there has been satisfactory educational progress? Is that part of what a school has to do to be able——

Mr. BUCKLEY. Yes, sir, that is part of the requirements. Regarding certification, it is my understanding, it is implicit in the fact that the school applies to the Department or certifies and draws down that money. I mean that is one of their duties to oversee this satisfactory academic progress.

Chairman NUNN. Was the Department of Education aware of this kind of data, for instance, the data of 6 to 10 years of over 162,000, the 4,000 over a 10-year period?

Mr. BUCKLEY. They were not. Senior mid-level management had no idea this data was even available. But the people in the Pell Grant computer division knew they had it and they did produce it. They had never, as far as we know, ever manipulated the data to investigate something like this.

Chairman NUNN. Is there any rule at all or regulation or provision of law that regulates the length of time you stay in school or is satisfactory, educational progress the only criterion?

Mr. BUCKLEY. There is no ceiling right now on the number of years you can get a Pell Grant. It is wide open. So as long as you never receive your bachelor's degree and as long as you maintain satisfactory academic progress, you are attending an eligible institution, and enrolled at least on a half-time basis, you can get a Pell Grant.

Chairman NUNN. How about student loans, how long can you go before you pay back the student loan? What triggers the payback?

Mr. BUCKLEY. This person may not be as innocent as she sounds. As long as you stayed enrolled in a school, you do not have to start paying back your loan. The Federal Government guarantees that loan and pays the interest subsidy to the guarantee agencies and secondary market. But as long as you are enrolled, you do not have to start paying back those loans.

Chairman NUNN. So theoretically and maybe even practically, a student can stay in school, receive Pell Grants for an unlimited number of years, also receive student loans, and never have the student loan paid back until they graduate, and they do not have to graduate to continue to receive Pell Grants?

Mr. BUCKLEY. That is right.

Chairman NUNN. You have outlined some of the payment which you were able to track from the bank records and the Bais Fruma case and financial statements, including questionable payments for mortgage rent, research and training. You went through that, went on the charts and so forth. Did you find any other questionable transactions relating to the money flow here?

Mr. EDELMAN. Yes, sir, Mr. Chairman. The Staff has conducted a preliminary review of currency transaction reports and currency and monetary instrument reports filed under the Bank Secrecy Act. CRTs are required to be filed whenever a transaction of cash or negotiable instruments in excess of $10,000 occurs. It is the responsibility of the financial institution conducting the transaction to fill out the appropriate forms for filing. And among the information included on this form is the party on whose behalf the transaction is being conducted. The currency and monetary instrument reports are required to be filed whenever cash or monetary instruments in excess of $10,000 are carried into or out of the United States. And it is the responsibility of the individual carrying the instruments to prepare the reports for filing with U.S. Customs Service.

Our preliminary review of these reports revealed that two individuals associated with Bais Fruma, Yitzchak Klein and George

Goldberger were responsible for filing over 700 such reports during the period 1987 to 1993. The amount of money involved in the transactions reported in these reports is over $7 million. Mr. Klein is Bais Fruma's treasurer and Mr. Goldberger is Bais Fruma's financial aid director. And the mere fact of conducting these transactions or filing these reports is not, in and of itself, an indication of any illegal activity.

However, our review of some of the information contained in these reports raised a number of questions which I would just like to outline for you here. For example, both Goldberger and Klein engaged in financial transactions on behalf of an entity known as American Theological Institute. Now on some reports filed the address of American Theological Institute was listed as P.O. Box 176. On other reports, the institute was listed at 1286 52nd Street. And on still other reports, the American Theological Institute was listed at 4601 14th Avenue. And this last address 4601 14th Avenue is the same address as Bais Fruma. And indeed, a check of the ready real estate property at the display database shows that the owner of 4601 14th Avenue is the American Theological Institute.

And even more intriguing is the fact that a number of other institutions on whose behalf either Klein or Goldberger performed transactions, were also listed on these CTRs and CMIRs as being located at 4601 14th Avenue. Among these institutions were the Rabbinical Seminary of Israel, the Shalom Torah Institute, Yeshiva Migdal Hatorah, and Bais Fruma itself. Still other reports, however, list these same institutions at different addresses.

For example, at least one report lists the Rabbinical Seminary of Israel as being at 1272 52nd Street. Now if you will recall, 1272 52nd Street is the address of the high school which we showed in one of the photographs earlier today that Bais Fruma was paying rent for. The sign on the outside of that building referred to it as Tifereth Bunim and said nothing about the Rabbinical Seminary of Israel.

A number of the CTRs also list different addresses for Bais Fruma itself, including a P.O. box address, an address at 4709 14th Avenue, and an address at 4712 14th Avenue. Now the Staff is not clear why Klein and Goldberger are listing multiple addresses for these same institutions. Nor do we know why individuals associated with Bais Fruma would be performing transactions on behalf of other organizations.

Perhaps the most intriguing information gleaned from our review of these reports though, shows that Yitzchak Klein has conducted a number of transactions on behalf of Boro Park Torah Institute. As you will recall Boro Park Torah Institute is the entity to which Bais Fruma is paying that $2 million mortgage for the empty shell of the building. In a number of these transactions, Mr. Klein actually negotiated instruments for cash, and, indeed, in at least one transaction, Mr. Klein took $50,000 out of the bank in $100 bills on behalf of Boro Park Torah Institute.

Now we cannot explain these transactions at this time, however, we do feel that they are very unusual transactions for employees of a nonprofit, tax-exempt religious organization to be engaging in. We have attempted to question both Mr. Klein and Mr. Goldberger and served each of them with a subpoena for deposition. However, in response to our subpoenas, both Mr. Klein and Mr. Goldberger asserted their privilege against self-incrimination under the Fifth Amendment. In light of the questions raised, at least in the Staff's mind by the information on these reports, we feel that this is a matter that is deserving of further investigation and would recommend the information be referred to the Departments of Treasury and the Department of Justice for such investigation.

Chairman NUNN. Based on what I have heard this morning, I think there is a good bit of material that needs to be sent to the Department of Justice. We will begin our hearings tomorrow morning at 9:00 a.m. in the same room. Thank you.

[Whereupon, at 1:04 p.m., the Subcommittee adjourned, to reconvene at 9:00 a.m., October 28, 1993.]

ABUSES IN FEDERAL STUDENT GRANT PROGRAMS

THURSDAY, OCTOBER 28, 1993

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:10 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Sam Nunn, Chairman of the Subcommittee, presiding.

Present: Senators Nunn, Roth, and Cohen.

Staff Present: John F. Sopko, Deputy Chief Counsel; Mary D. Robertson, Chief Clerk; Alan Edelman, Counsel; Eleni P. Kalisch, Counsel; David B. Buckley, Chief Investigator; Harold B. Lippman, Investigator; R. Mark Webster, Investigator; Scott E. Newton, Investigator; Cynthia Comstock, Executive Assistant to Chief Counsel; Declan Cashman, Staff Assistant; Daniel F. Rinzel, Minority Chief Counsel; Stephen H. Levin, Minority Counsel; Carla J. Martin, Minority Assistant Chief Clerk; Mike Maloney (Senior Auditor, GAO Detail); John Forbes, Investigator (Customs Detail); Gene Richardson, Investigator (AID Detail); Betty Ann Soiefer (Senator Glenn); Paul Feeney (Senator McCain); Kelly Metcalf (Senator Cohen); Paulina Collins (Senator Cohen); Doris Dixon (Senator Cochran); Sean Parkin (Senator Bennett); and Steven Burns (Senator Sasser).

OPENING STATEMENT OF CHAIRMAN NUNN

Chairman NUNN. The Subcommittee will come to order.

This morning the Senate Permanent Subcommittee on Investigations begins our second day of hearings on fraud, abuse, and other problems in the Pell Grant program. This student financial assistance program, currently the largest direct Federal student aid program, uses public funds to help millions of people obtain the education they otherwise would not be able to afford. The Government is helping many people who otherwise would not be able to secure education without this assistance, and I think we have to keep that in mind.

The Department of Education is preparing to implement the direct student loan program, which will use Federal money to also originate student loans, replacing lenders and the private capital currently used for the Guaranteed Student Loan Program. Once this is accomplished, that outlay of Federal funds for student aid will certainly be substantially more than, and in fact dwarf, this $6 billion program.

This major change in the student loan program makes these Pell Grant hearings, I think, particularly timely and relevant because the Pell Grant program appears to be the model the Department is using for the direct lending program. Maybe I am wrong on that, but I would like to hear from our witnesses this morning on that. And as we heard yesterday, the Government relies on the same gatekeeping and school oversight mechanisms for both the grant and the loan programs.

We know, based on this investigation and previous hearings we have held, that the Department of Education has historically had a very bad track record in managing and overseeing these multibillion dollar programs.

I have to add Congress deserves no blue ribbons here either. Congress has not given the proper oversight to this program, nor until 1992 have we given the Department of Education the direction in terms of where we think the program ought to be going. And I would say even today I do not believe the Department of Education has the tools in terms of the skilled, trained people to be able to properly administer the program. But we will hear more directly from more knowledgeable people on that subject this morning.

Yesterday we heard testimony from Senator Claiborne Pell, whose name this worthy program bears. He knows how important this program is, and he made it absolutely clear yesterday that no one is more interested in having it straightened out and run in an efficient way than Senator Pell himself. And I am sure the others who helped originate the program feel the same way.

These hearings are not about stopping the Pell Grant program. We want to assure that this necessary student aid program is properly managed, however, has clear objectives, and is accountable to the public whose money is used to fund it. And I certainly expect our witnesses this morning to tell us if we have clear objectives, and the objectives, of course, are objectives that have to be set down in law by the Congress in a broad sense. So if those objectives are not clear, then I think it's up to the executive branch to let us know that because clearly we are in a position to make some changes in that and should and have a duty to if the objectives are not clear and if you do not have the tools to run the program properly.

We have also heard from the U.S. General Accounting Office as well as the Subcommittee staff as they detailed the results of their investigations of abuse and apparent fraud in this program. Because of budget constraints, the Pell Grant program is not fully funded. Accordingly, every instance of fraud, every instance of abuse results in a direct reduction in the amount of aid available to the truly worthy students attending truly eligible and productive institutions.

This morning, the Department of Education will respond to the issues raised during this investigation, and the Inspector General of the Department will give his perspective of the program and the highlights as he sees them. I will ask Mr. Longanecker, you and Mr. Thomas and Mr. Wurtz, all to please stand and take the oath. We swear in all the witnesses before this Subcommittee.

Do you swear the testimony you give before the Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. THOMAS. I do.

Mr. LONGANECKER. I do.

Mr. WURTZ. I do.

Chairman NUNN. Thank you.

This morning, the Department's Inspector General Jim Thomas will provide his perspective on this major source of student aid, the Pell program, which during the last 21 years has provided over $59 billion to students.

Mr. Thomas has been the Department's Inspector General since 1980 and has testified before this Subcommittee in 1990 during our investigation of the student loan programs.

After Mr. Thomas' testimony, we will hear from Dr. David Longanecker, the Assistant Secretary for Postsecondary Education. Dr. Longanecker, who assumed his current position in June of this year, came to the Department from the Colorado Commission on Higher Education where he was the executive director. As the Assistant Secretary for Postsecondary Education, Dr. Longanecker has purview over many programs, including the Federal student aid program.

Mr. Longanecker is joined by Mr. Donald Wurtz, Assistant Secretary and Chief Financial Officer for the Department of Education. Mr. Wurtz recently joined the Department as well—when was that, Mr. Wurtz? When did you come to the Department?

Mr. WURTZ. I came with the Department just a month ago.

Chairman NUNN. About a month ago, having spent much of his career at the General Accounting Office.

Mr. Longanecker, I made it clear yesterday in my statement that I felt that the new Secretary of Education and his team, including you, are dedicated to getting this program back on track. And I wanted to make sure you understood that was part of what I said.

Mr. LONGANECKER. I certainly did.

Chairman NUNN. I do believe you have a long way to go, and we will get into that this morning. But we are here to hear from you, and, Mr. Thomas, we will ask you to lead off this morning.

TESTIMONY OF JAMES B. THOMAS, JR.,[1] INSPECTOR GENERAL, U.S. DEPARTMENT OF EDUCATION

Mr. THOMAS. Thank you, Mr. Chairman and members of the Subcommittee. Thank you for inviting me here to share with you the perspective of the Office of Inspector General——

Chairman NUNN. If you could pull those mikes up. You really have to talk directly into them, and pull it up as close as you can to you.

Mr. THOMAS. All right, sir. Thank you.

Thank you for inviting me to share with you the perspective of the Office of Inspector General on fraud and abuse in the Federal Pell Grant program. If I may, Mr. Chairman, I would like to summarize my statement and submit the entire statement for the record.

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[1] The prepared statement of Mr. Thomas appears on page 212.

Many of the same abuses that this Subcommittee highlighted in its 1991 report on the loan programs also plague the Pell program: poor or inadequate gatekeeping practices, financial controls, data systems, and oversight of participating schools.

However, the same level of attention, up until now, has not been directed to the Pell program because Pell is a silent program. There are no visible or vocal victims to cry out as in the loan programs. An obvious victim—the Federal taxpayer—does not know when these grant funds have been wasted.

The areas I would like to discuss regarding the program are: the status of improvements to the gatekeeping process since the 1990 hearings; opportunities to improve controls over grant authorizations and payments to schools; opportunities to improve the oversight of the Department's contracts for administration of key aspects of the Pell system; and opportunities to improve the Department's oversight of institutions of higher education responsible for the day-to-day administration of the Pell program.

Also, an additional characteristic of the Pell program that fosters fraud and abuse is that there are no clear outcome performance measures for the program. There is no limit on the total amount of funding a student can receive or the number of years a student can receive a grant, nor is there a clear understanding of outcomes expected for different types of education.

We recently issued a Management Improvement Report that recommended that funding for vocational training be rethought, with an emphasis on investing limited Federal education funds on what works best in terms of helping the recipients of the training get jobs. We suggested that labor market needs of employers and the success rates of schools in placing graduates be considered in studying different funding approaches for students enrolled in vocational training programs. However, we need to take this idea further and make some hard decisions as to what the outcomes we as a Nation should be demanding from all participants—institutions, students, and others.

Gatekeeping is the process used by the Department to determine which schools are allowed to participate in both the SFA grant and loan programs. During 1989 and 1991, we issued audit reports which concluded that the Department's gatekeeping process was ineffective in preventing problem schools from participating in the SFA programs. Although the Department has made significant strides to improve gatekeeping, our followup review disclosed that there are important issues in accreditation and financial responsibility that need additional attention.

In addition, the Department still has problems with missing files as well as inaccurate management information. Thus, gatekeeping is still not as effective as it could be.

Our followup work disclosed that the Department has implemented many of our recommendations for corrective action regarding the planning for and performing of its reviews of accrediting agencies. These actions should ultimately result in the accrediting agencies being held accountable for their accrediting decisions. However, until the National Advisory Committee is reactivated and the Department has had the opportunity to present its finding before the NAC, we are not able to assess the effectiveness of the Department's corrective actions.

Our follow-up work determined that the financial certification process is not consistently providing adequate protection for the students and taxpayers. We found that the Department certified new schools that did not meet the requirements. For participating schools that did not meet the requirements for financial responsibility, it required sureties at a minimum of 25 percent of annual SFA funding, a standard that we found was not consistently applied. For a sample of 13 schools that failed the financial responsibility test, the Department required sureties of less than 25 percent for 6 of those schools.

Because of problems identified by audits and investigations, and because of the large amount of funding appropriated for the Pell program, we initiated an audit of the Pell financial aid delivery system.

Chairman NUNN. When did you start that, Mr. Thomas?

Mr. THOMAS. We started it this year. It is in process at the present time.

Although this audit is still in process, our initial work has disclosed several control weaknesses and abuses for which we anticipate providing the Department with recommendations for improvement on several areas of concern.

One concern is authorization and payments to schools. The large amount of advance funding made available to a school exposes the program to potential abuse by unscrupulous school owners at the very beginning of the Pell delivery process. The Pell Grant funding process relies very heavily on the integrity of schools and their timely reporting to two different management systems within the Department. These two reporting systems are not designed to be easily reconciled.

Once a school receives its Pell authorization, it can simply draw down money directly from a Federal account using the same type of PIN number you use at an ATM machine to draw money out of your personal bank account. There is no requirement that a particular student for whom money is drawn down be identified prior to the money being drawn down by the school. Our audits and investigations, as well as program reviews, show a history of schools failing to report student withdrawals and no-shows, resulting in their drawing down cash in excess of their needs.

In May of 1992, one school had signed a repayment agreement to repay approximately $300,000 covering excess Pell funds received by the school as of March 31, 1992. The OIG audit report identified that the school had almost $400,000 in additional excess cash as of December 31, 1992.

Chairman NUNN. Mr. Thomas, do you think that is an exception? Is this just something that slipped through the cracks, or could there be hundreds of schools out there with this kind of excess?

Mr. THOMAS. I believe a little later in my testimony I have some numbers that would show that it is not an isolated case, Mr. Chairman.

Chairman NUNN. So we could have schools all over this country with several hundred thousand dollars of excess Pell Grants as far as the Department of Education knows? I mean, there is nothing, as the IG, that you believe is in place to prevent that from happening now?

Mr. THOMAS. That is correct. That is correct, sir.

Chairman NUNN. Thank you.

Mr. THOMAS. This also demonstrates the Department's apparent ineffectiveness in monitoring a school's lax cash management practices once they have been identified. At another school, an investigation determined that many Federal Pell vouchers were for no-show students or students that withdrew from the school and that the school failed to report a reduced Pell award for the students due a refund. In essence, the school had access to more funds than it was entitled. The school owners were able to siphon $650,000 from the Pell program through its "cash first, document later" payment system.

The owners used the Pell funds drawn for a variety of business and personal expenses. What is particularly alarming is that this fraud came to our attention not because of any controls in the Pell process, but because the school owners also submitted bogus federally insured loan applications for real former students and forged their names to the loan checks. The victims of the loan fraud complained when they were asked to repay the loans. Undoubtedly, the loss to the Federal Government would have been much larger or possibly still ongoing had the school owners limited their fraudulent activity to the Pell program or had used phantom students rather than real people in the loan fraud scheme.

Chairman NUNN. In other words, they got greedy. If they had not been extra greedy, they could still be getting away with it.

Mr. THOMAS. That is correct, sir.

This is a real concern as more and more schools rely on the Pell Grants as they lose their access to the Federal loan program due to the high student loan default rates, but maintain their eligibility for the Pell program.

In fiscal year 1992, excess cash was identified—to get to your question specifically, Mr. Chairman—as an issue in about 2,400 of the approximately 6,400 audit reports issued by the Office of Inspector General. It also was identified as an issue in about 220 of the approximate 700 program reviews that were done by the program staff.

Chairman NUNN. Somewhere between 30 and 40 percent?

Mr. THOMAS. That is correct. That is correct. That were issued during the same period of time.

I believe that the Department has relied too heavily on this after-the-fact inspection rather than improving the delivery system controls to assure that the excess cash problem rarely occurs.

Also of great concern is that there does not appear to be a control to prevent different schools from drawing down duplicate grants for the same student or for students to receive duplicate grants. As long as a school has a listing from the central processor identifying the student as a potential enrollee, the school can receive forward funding for that student.

Even worse, though, our investigations are showing that there are not adequate controls in the Pell delivery system to prevent duplicate payment vouchers from being submitted by two or more schools supporting Pell Grants awarded to the same student.

Chairman NUNN. In other words, let's say hypothetically a student signed up in 10 schools, or signed up in 1 school and 9 of them used that name in a false manner, is there anything in the Department of Education system that would alert the Department policymakers in a timely fashion that a student was receiving not 1 Pell Grant but as many as 5 or 10 Pell Grants?

Mr. THOMAS. Nothing that I am aware of, sir. I think, Mr. Chairman, it is more aggravated than that in that when a student gets ready to apply to a college, a student can indicate more than one institution to which his or her name should be sent. And so the student may not have made a final decision at that point and so the name goes to three institutions. Each of those three could possibly draw funds.

Chairman NUNN. They could be collecting on the same student?

Mr. THOMAS. That is correct. Yes, sir, on the advance drawdown.

Our survey has disclosed that educational institutions are not required to timely submit reports to close their accounts. Institutions have 21 months after the close of an award year to submit final reports to the payment office. Allowing such a lengthy closeout period makes the final accounting extremely difficult and extends the period that Pell funds are susceptible to abuses.

In addition, we have found a lack of an audit trail and inadequate documentation for some year-end adjustments. Some adjustments to Pell funding levels are recorded based on nothing more than a telephone call and a summary document from the institution. In addition, in the past, representatives of the institution were required to sign and certify the accuracy of the institutional payment summaries. Institutions are currently permitted to file these reports electronically through the central processor.

A representative of an institution signs an electronic submission contract at the beginning of the award year that covers several years. The electronic filing of the report does not require signature or certification by the institution. This decreases the ability of the Department to take any action against the wrongdoer.

Because no signature certifying the document's completeness and accuracy exists, providing acceptable evidence and proving who filed the document is much more difficult.

Let me suggest that in this age of computers and faxes and electronic data transfers, the Department can achieve access while still realizing efficiency and accountability. The same tools that allow schools to access large amounts of Federal funds should also foster an environment for reporting. While we're still performing all that work in this area, we definitely believe that improvements must be achieved in the closing and reconciliation of Pell accounts.

Chairman NUNN. What you are describing, as I get it, Mr. Thomas, is a $6 billion grant program that is, in effect, on the honor system?

Mr. THOMAS. Absolutely. Absolutely, yes, sir.

We believe that improvements must be achieved in the closing and reconciliation of Pell accounts as well as documentation requirements in order to protect the taxpayers' interest.

A second item of concern for my current work is the Department's oversight of the contractual arrangements through which the Department administers key aspects of the Pell program. Currently, primary contractual support is provided by eight private contractors which provide everything from inputting and processing student aid applications to maintaining the systems that authorize and file the disbursement of Pell funds to educational institutions. For the 5 years ending 1993, we estimate that the Department has expended about $63 million for contractual support to administer just the Pell program.

While we have not yet completed our audit, we have a number of major concerns, including inadequate certification of claims by contractors regarding the number of applications they processed. Department program staff do not verify the number of applications processed. Instead, they simply pay the contractors the amount shown on the invoices without any assurances to their accuracy.

Chairman NUNN. Let me ask this question to make sure I am following you now. You are saying that on the Pell Grant program there are a number of contractors that are hired by the Department to help administer this program?

Mr. THOMAS. That is correct, sir.

Chairman NUNN. What is their function? What are the contractors supposed to do?

Mr. THOMAS. Well, the contractors are involved, Mr. Chairman, from the point of view of initially inputting the documentation into the central processing unit throughout the system all the way up to the point of disbursement of funds. So they have the entire cycle of the system.

Chairman NUNN. In other words, these are people who are being used in lieu of Federal employees?

Mr. THOMAS. That is correct.

Chairman NUNN. And how much money are we spending a year on those people, those contractors?

Mr. THOMAS. The numbers that I have here, Mr. Chairman, show about $63 million for a 5-year period. So that would be roughly $12 to $14 million a year for the average of those last 5 years.

Chairman NUNN. And what they are doing is basically just, in effect, administrative work? They are doing filing, tracing in terms of the paperwork and getting it in the right files. Is that right?

Mr. THOMAS. Well, they are applying some of the formulas for the Department as well, so that when the student report goes back to the school, then that school has the data needed to make the analysis for the financial aid package for the student.

Chairman NUNN. OK.

Mr. THOMAS. The potential impact of inadequate contractor oversight goes beyond the cost incurred for the ED services rendered. To the extent that contractor performance is deficient, few aspects of the Pell delivery system can be expected to function absent abuse and potentially even fraud.

A third issue of concern from our current work is the Department's oversight of participating schools. Each participating school is responsible for ensuring that the program is administered according to departmental policies and regulations and any provisions of the agreement it entered into with the Secretary. The specific regulations these institutions are committed to include determining student eligibility, calculating and disbursing grant funds, enforcing academic progress standards, maintaining student attendance records, and calculating and making refunds. Over the years we have uncovered numerous irregularities in the administration of the Pell program by specific schools as well as indicators of systemic problems.

We have found schools that have disbursed Pell funds to ineligible students, admission requirements not being enforced, students receiving Pell Grants even though they have not signed required documents, and academic progress standards not being enforced or which are inadequate or lacking.

Chairman NUNN. Mr. Thomas, can you judge the scope of this? Is there any way that you know you can judge whether this is a pervasive problem that affects a large percent of the Pell Grant program or whether it is just a small problem that is basically to be expected? I mean, where do you rate it in terms of 10 being a severe problem that is pervasive throughout the Pell Grant program and 1 being something that just happens inadvertently and is a very small amount of money? Where is it on that scale, or can you judge?

Mr. THOMAS. I cannot judge with any degree of accuracy, Mr. Chairman, because we only know of those instances that result from our involvement. We know that there are significant dollars involved throughout this process. We know that of the instances that we have been involved in, we are talking about hundreds of millions of dollars that are being either wasted or defrauded.

Chairman NUNN. Do you think we can afford to run a $6 billion program on the honor system?

Mr. THOMAS. No, sir, I do not.

Chairman NUNN. Would you describe this program as not being controlled or out of control? How would you describe it?

Mr. THOMAS. Well, I would say that significant improvements have been made in the last 2 or 3 years. I would say that the kind of skill that David and his immediate predecessor have been hiring in the Department is the kind of skill that they need to properly administer these programs. I think they have made significant strides. I think there are significant strides in front of them, though.

Chairman NUNN. But it is still a program that is being run on the honor system.

Mr. THOMAS. It is still a program that is being relied upon by outside parties to run, predominantly.

Chairman NUNN. And it is a program that is almost an invitation for people who are not honest to rip it off, isn't it?

Mr. THOMAS. That is right. Yes, sir.

I believe that our current work will help the Department in its improvement of the Pell delivery process, and we plan to make several substantive recommendations to improve areas in which we continue to see risks to the students and to the taxpayers. We also will be providing the Department with specific recommendations identifying opportunities for improving the actual conduct of on-site program reviews, as well as the administrative procedures and information systems that support the program review function.

I think in conclusion, Mr. Chairman, the Pell Grant program is by its very design vulnerable to fraud and abuse. The $6.2 billion per year program operates essentially on an "honor system." Significant problems have been identified both in the gatekeeping function which permits institutions to participate and in the monitoring of those institutions' participation. Our current work is showing problems with the system for authorization, reporting and reconciliation of drawdowns which can be easily abused by unscrupulous participants. It is showing opportunities to improve oversight of contracts for administration of key aspects of the Pell program and of higher education institutions responsible for day-today administration of the program. Most importantly, the Pell program, like the loan programs, has no clear outcome performance measures. A focus on this program is particularly important when it is being looked to as a model for the new direct lending program.

Mr. Chairman, that concludes my summary of the statement, and I will be happy to continue answering questions as you see fit.

Chairman NUNN. Thank you, Mr. Thomas. Let's hear from Mr. Longanecker now, and then I will come back and ask both of you questions. Thank you very much, Mr. Thomas, and we appreciate your cooperation and the Department's cooperation during this investigation.

Mr. Longanecker.

TESTIMONY OF DAVID A. LONGANECKER,[1] ASSISTANT SECRETARY, OFFICE OF POSTSECONDARY EDUCATION, U.S. DEPARTMENT OF EDUCATION, ACCOMPANIED BY DONALD WURTZ, ASSISTANT SECRETARY AND CHIEF FINANCIAL OFFICER, U.S. DEPARTMENT OF EDUCATION

Mr. LONGANECKER. Mr. Chairman and members of the Subcommittee, for the record, I am David Longanecker. I am the Assistant Secretary for Postsecondary Education in the U.S. Department of Education, and I welcome this opportunity to discuss with you today the Federal Pell Grant program.

Over the past 20 years, this program has been immensely important for improving college access for low-income individuals. Unfortunately, the program has also had its share of problems, including abuse by program participants, poor management, and inadequate standards for measuring program outcomes. Correcting these problems will restore integrity to the Federal Pell Grant program and increase its effectiveness in helping low-income students achieve success in postsecondary education.

In my testimony, I want to highlight the significant successes of the Federal Pell Grant program first, and then I will discuss three areas that demand our immediate attention. We know that some currently participating schools should never have been approved for the program, so I want to discuss our gatekeeping responsibilities. We know that our monitoring efforts sometimes fail to uncover instances of mismanagement and abuse, so I want to share with you our revised strategies for improving institutional monitoring. Finally, we know that the program needs clearer performance goals and standards, and I look forward to working with you to clarify and improve those standards.

We are committed at the Department of Education to solving these problems. The program is simply too important to ignore its management shortcomings or to allow it to be abused by those who would exploit it and its participants for purposes contrary to the program's intent.

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[1] The prepared statement of Mr. Longanecker appears on page 224.

This program has enabled millions of students to attend our Nation's colleges, universities, and trade schools. Since its enactment in 1972, the Federal Pell Grant program has made 55.7 million awards totaling $64.2 billion to students. Today, more than 4 million students, nearly 1 in 4 of all students attending our postsecondary institutions, receive Pell Grants. Most importantly, this program has enabled millions of low-income students to attend college who otherwise would have been unable to afford postsecondary education. It has been the critical cornerstone of the Federal commitment to provide access. It has helped reduce the gap between the percentage of low-income and high-income students attending postsecondary institutions. Total enrollment in higher education grew from about 9 million when this program was implemented in 1972 to more than 14 million students today. Although this increase in students is reflected across all income ranges, the increase for students from low-income families is significantly higher than the increase for other income groups. In addition, this program has helped to expand options available to these students. The percentage of high school seniors from low-income families who attend their first choice college or postsecondary institution increased from one-third in 1972 to almost one-half 10 years later.

To achieve fully our goals for the Nation's students, we need to promote not only access but also program completion and graduation, what we refer to as access to success. While we have a long way to go to improve retention rates at the postsecondary level, the effects of the Pell Grant program on retention for low-income students is striking.

A low-income student who receives a Pell Grant is twice as likely to earn a bachelor's degree as a low-income student who does not receive a Pell Grant.

Chairman NUNN. Dr. Longanecker, let me ask you this question on that because these are impressive points for the Pell program. Most low-income students who do not receive Pell Grants in my experience do not ever go to college. How do you make a comparison like that?

Mr. LONGANECKER. Well, we do have some low-income students who are enrolled and are not receiving Pell Grants. It depends in part on how you define low-income and at what we are looking. But when we control for all of the factors, students who are receiving Pell Grants and attend college are much more likely to persist than those who do not receive Pell Grants. Now, there are various reasons why a low-income student might not receive a Pell Grant program. They might not be enrolled full-time or at least half-time. They might have substantial family assets. Until recently, farm and home equity were substantial impediments for some low-income families.

Chairman NUNN. I think this is an impressive statistic, but I would ask you to take a look at what is behind it because it seems like to me the methodology of achieving this would be very difficult.

Mr. LONGANECKER. Yes. What is generally——

Chairman NUNN. I just do not know of many low-income students who do not apply for Pell Grants if they are in college, and I do not know how you make—I assume these are low-income students who are in college.

Mr. LONGANECKER. That is correct. Not all students who apply are eligible, and that is how we are able to follow some of these students. These students still reflect low incomes, but for one reason or another have not been judged to be eligible for the Pell Grant program.

Your point is still well taken. I think what is also clear, though, is that there is a substantial body of research that suggests that grant assistance is extremely important to low-income people.

Chairman NUNN. I do not think there is any doubt about that. I would agree with that completely, and I think there is no doubt about it. But I am just curious about that particular comparison.

Mr. LONGANECKER. As the program has grown and established what we think is a remarkable track record, the number of students and institutions that would exploit the system has also grown. And we are here today to affirm our commitment to make this program work better and to frustrate the efforts of those who would abuse it.

We know that some schools have been allowed to participate in the Federal Pell Grant program that should not have been approved to participate. Since the Department last testified before this Committee on the student loan program, we have worked with Congress to improve the process by which we approve schools to participate in the title IV programs, including strengthening our eligibility and certification procedures within the Department, enhancing the State role in licensing and reviewing postsecondary institutions, and improving the accreditation process—a group of activities that we refer to often as the triad. The Higher Education Amendments of 1992 strengthened and complemented the numerous steps we took prior to reauthorization to tighten our monitoring and gatekeeping processes and requirements.

One of the most important tools included in the 1992 amendments is the ability to certify schools provisionally to participate in the program. Through provisional certification, the Department can limit the length of time and conditions under which a new school is allowed to participate. When a school has no history of administrative capability or financial responsibility, we can provisionally certify a school for a period of time that allows us to monitor its performance closely. Further, such schools agree to the Department's right to revoke their provisional certification with a simple notice that gives them 10 days to demonstrate that the decision is wrong. This is a substantially different process than the fairly long one that is required to terminate a program that has been fully certified to participate. Thus, we can now move quickly to remove those institutions that intended to do a good job when they began but have not been able to demonstrate performance. In fiscal year 1993, we certified provisionally 166 schools—that was the first year in which we had this authority—including 47 new schools and 67 schools that changed ownership.

We have begun performing certification reviews for title IV program participation of all institutions adding one or more locations.

Next year we will begin to review the eligibility and certification of all participating schools. To do this, we will be establishing a priority ranking of all of the 7,300 schools that participate in the program based on the indicators of potential problems and funding levels. We expect to review about 1,500 schools in the first year, and we will be concentrating on those institutions that pose the greatest risk for Federal funds. Of course, we will be reviewing schools that are of lesser risk, as well as initial applications, applications for changes in ownership, and other routine activities as well. We believe that that plan will allow us to meet the statutory requirement that all institutions have their eligibility and certification reviewed over the 5 years and provide greater oversight on our part to this program.

Chairman NUNN. Are you going to need any more employees working in this area to handle that task?

Mr. LONGANECKER. I would like to spend some time later on talking about that. I do not think our issue is necessarily the numbers of people that we have. I think where we have had our problems in the past has been in the lack of adequate preparation and training we have provided for our employees and the fact that we have downsized as a Department. We have downsized by about 25 percent over the last 12 years yet we continue to try and do business the same way. And when you cut your staff 25 percent and you do the same work, you have basically cut your activities by 25 percent.

We need to work smarter and better with the resources that we have. I believe that we have adequate resources. We may have to dedicate some additional resources to this, particularly as we bring up the new direct student loan program and phase out the level of activity in the current Federal Family Educational Loan programs. That is somewhat unrelated to Pell, but it is certainly related to the overall administration of the Department. But we think what we need to do is work smarter.

Chairman NUNN. You have 7,300 participating schools. How many people do you have to monitor those?

Mr. LONGANECKER. In the monitoring functions—I have those numbers. I have forgotten those. I will report those to you here.

Chairman NUNN. The number I have is 95. Does that sound correct?

Mr. LONGANECKER. That is reasonably accurate. I believe we have approximately 95 nonsupervisory reviewers in our regional offices.

[Subsequently, the following information was furnished]

The Department of Education has about 407 full-time employees who have oversight and monitoring responsibilities. Of this 407, about 223 employees work in the regional offices.

Chairman NUNN. You say the problem is not numbers, and I hope that is the case, that it is also skill. We know that is the case. We have said for years in this Subcommittee that the people in the Education Department were not properly trained for this task. But let's say 95 people is correct. Obviously they are going to have to be trained better, right?

Mr. LONGANECKER. Staff are going to have to be trained better, including the 95 people who are working in the regional offices. We have the capacity through the staff that we have in our offices to do the work necessary to identify schools. What we want to do is work smarter, work more effectively, and to really substantially enhance the tools that those people have so that they can accomplish more than we have been able to with the tools we have had in hand.

Chairman NUNN. Well, I agree with that completely, but that implies some training period.

Mr. LONGANECKER. That is correct.

Chairman NUNN. Now, you are going to have to go through a training period and continue to monitor 7,400 schools and also take on a direct loan program all at the same time.

Mr. LONGANECKER. That is correct.

Chairman NUNN. In a program that your own IG says is based on the honor system now.

Mr. LONGANECKER. That is an accurate reflection of the way in which this program has been operated. Some of the management controls that we are in the process of implementing at the present time still maintain some elements of the honor system for those institutions that demonstrate that they have strong administrative capability.

Chairman NUNN. But the point is, Dr. Longanecker, you have to train people.

Mr. LONGANECKER. Yes.

Chairman NUNN. To train people, I do not know whether you—have you got a training program in mind? Is it 1 week? Is it 3 months? Is it 6 months? Is it a year? What kind of training program do you have in mind?

Mr. LONGANECKER. It is not a 6-month or a year-long program. What we will be doing is periodic training on various tasks. We have begun a training process with our regional staff that has involved working with them to increase their understanding of accounting principles and financial management controls. As we implement these other controls, we will be training all of our staff in how to most effectively use a much more robust information management system.

That will take time. It will not take substantial amounts of time, but it will take periodic training that will take away from their time in the field. There is no doubt about that.

Chairman NUNN. And you are sitting here and telling us you can take the same number of people and correct the substantial abuses that we are identifying here and that have already been identified not only in Pell but in the student loan program, and take on the direct lending program at the same time and also train the people at the same time that are now woefully inadequate for the tasks——

Mr. LONGANECKER. No, we——

Chairman NUNN. You are going to do all that at the same time with the same number of people?

Mr. LONGANECKER. No. You have been very generous as a Congress in providing us the resources to bring up the new direct student loan program, and that will give us the capacity to enhance our staffing ability.

Chairman NUNN. So you are expanding your staff now?

Mr. LONGANECKER. That is correct. You have provided us with the capacity to expand our staff for the purpose of the student loan program by about 600 over the next 5 years. Whether we do that with our own staff or with contract staff or a combination of those two, we believe that gives us the capacity to bring those programs up and to manage, continue to manage——

Chairman NUNN. How about the Pell Grant program? Do you have any——

Mr. LONGANECKER. For the Pell Grant program, there is not an additional staffing requirement, and so we have to basically look at that as one of the regular ongoing programs for which we have to find a better way to manage with the existing resources.

We are not organized as a unit, though, along program lines. Basically the issues that are raised here with Pell Grants are legitimate issues for our overall management of all title IV programs.

Chairman NUNN. The same gatekeeping applies to student loans and to——

Mr. LONGANECKER. That is correct. And so the same kind of lax-use of gatekeeping in the past that is being demonstrated by problems with the Pell Grant program here logically exist for all of our programs.

Chairman NUNN. OK.

Mr. LONGANECKER. One of the major changes that resulted from the reauthorization was with respect to the use of and involvement with States. We have consciously improved our coordination with State and guaranty agencies with respect to the actions of closed institutions. When a school closes, all entities with oversight responsibilities are promptly notified in order to cease the flow of Federal funds and initiate efforts to recover already expended funds. Additionally, now that we have more experience in compiling default statistics for institutions, we are focusing greater attention in our certification efforts on institutions that have high cohort default rates in the Federal Family Education Loan program. Accordingly, it is imperative for the Congress to act favorably on our legislative proposal to close the loophole that has permitted some institutions to escape the consequences of a high default rate through litigation. Finally, the level of surety has been increased where necessary to protect the Federal Government and students. Currently, 232 participating institutions have posted surety totaling $58 million. Also, we are converting, as needed, the type of surety required from performance bonds to letters of credit, which are more readily collectible by the Department and by the Secretary.

Our efforts to improve the gatekeeping activities have also been aided by several new authorities in the 1992 amendments relating to state oversight and accreditation.

Our partnership with the States in the oversight of postsecondary institutions is significantly strengthened by the State Postsecondary Review Program. Under this new authority, the States will develop standards approved by the Department to use in conducting reviews of institutions referred to the State by the Department. As originally recommended by this Committee, the Secretary now has statutory authority to provide reimbursements to States for the cost of their efforts. Although no fiscal year 1993 funds were appropriated for this activity, the Department did reprogram $5.3

million within the student financial assistance account to initiate the program, and nearly all States have applied for funding for the startup activities. For fiscal year 1994, the appropriation for the Department provides $21.25 million for this activity, permitting the States to begin reviewing their postsecondary institutions and developing consumer complaint and information systems. That process is extremely important and we think will have a fundamentally positive effect on our gatekeeping activities.

The accreditation process has also been strengthened through the reauthorization of the Higher Education Act. The Department will soon publish proposed regulations for recognizing accrediting agencies, resulting from the 1992 amendments, which will make it clear that the accrediting agencies are accountable for the schools they accredit. As required in the amendments, accrediting agencies must be separate and independent, both administratively and financially, from any related or affiliated trade association or membership organization. This requirement will eliminate the danger of trade associations exerting, or being perceived to exert, pressure on accrediting agencies to keep their accrediting standards low.

Also, as required by the 1992 amendments, accrediting agencies will be required to have meaningful standards for assessing an institution's fiscal and administrative capabilities, recruiting and admissions practices, measures of program length and student achievement, and program completion, job placement, and default rates. In the case of nonbaccalaureate vocational education, where the Department and your Committee have uncovered many problems, the regulations we are developing would require State agencies to establish standards for such measures of student achievement as completion rates, job placement rates, and pass rates on licensing exams. These regulations would also require accrediting agencies to take followup action when a school fails to meet those standards.

Further, the 1992 amendments have helped us target common areas of abuse for correction. For example, the Secretary will no longer recognize the accreditation of any institution that is in the process of changing from one accrediting agency to another unless there is a strong demonstration of reasonable cause for doing so. Further, each institution must designate one accreditor for purposes of program eligibility to prevent accreditation "shopping" that occurred in the past.

The Department has taken a number of significant steps in improving the administration of the student financial aid programs. Because students apply directly to the Federal Government for the Pell Grants, we have been able to use the National data base that developed from that to implement a number of very productive controls. For example, in January of 1991, we began matching Pell Grant applicants with our file of defaulted student loans that had been assigned to the Department for collection. In July of 1992, we expanded this activity by matching applicants with the default files of guaranty agencies. This effort has been helpful in ensuring that ineligible students do not receive Pell Grants. So far this year, we have identified nearly 100,000 applicants through this matching process.

In January of 1994, we will begin to match the Social Security numbers of all student aid applicants with the master file maintained by the Social Security Administration.

Chairman NUNN. Mr. Longanecker, let me ask you one question there. Perhaps you can clear this up. It was my impression that the student did not have to start paying back a student loan until they were out of college.

Mr. LONGANECKER. They do not have to do that. That is correct. But many of them returned to college and have been delinquent on a loan in their absence from college. And so we have the opportunity here to determine, as they come back into the system, whether they are delinquent to the Federal Government or not on a prior——

Chairman NUNN. But there could be a whole lot more students out there who are continuing to collect, taking very few courses, perhaps not performing very satisfactorily in the courses at all, and continuing to get Pell Grants because they could not be in default on student loans when they were not——

Mr. LONGANECKER. That is correct, and we have examples——

Chairman NUNN [continuing]. Owed until they get through college.

Mr. LONGANECKER. We have a few examples of those. I will come back and discuss that, and that is an issue I think——

Chairman NUNN. Do you have a way of checking on that?

Mr. LONGANECKER. We have a way of checking on that, but that is not essentially illegal or unethical behavior. At the present time, we lack the kind of performance outcome standards in this program because, while we have a clear purpose for the program, we do not have a clear understanding or appreciation of what our expected outcomes are.

Chairman NUNN. In effect, there is no measurement at all for the Pell Grant program?

Mr. LONGANECKER. That is correct. Success in this program is whether we successfully give the students the money, not whether they graduate from college or proprietary school, not whether they stay in school forever. That is, I think, a major issue that we need to work with you, the Congress, on——

Chairman NUNN. In effect, the students do not get the money. It goes to the schools, right?

Mr. LONGANECKER. Well, they get some of the money, but the money primarily goes to pay their educational expenses, including tuition. And so that is an issue, I think, that we need to spend a lot more time working with you folks on as we move along to get clearer outcome standards for this program so that we can be sure of where we are headed.

Chairman NUNN. I agree.

Mr. LONGANECKER. I mentioned that we have been working with the Social Security Administration. This effort will provide us another handle for substantially improving the administration of this program and weeding out additional fraud and abuse.

Another management improvement that benefits both institutions and students is our strategy of streamlining the Pell Grant process by actively promoting the use of electronic processing. Today about five out of every six student payment transactions originated by participating institutions are accomplished electronically. Our goal is to get to 100 percent on this. Electronic processing substantially reduces the amount of error in the reporting of information.

We plan to use our regional staff to help review high-risk schools on site, as part of their ongoing monitoring responsibilities. We also intend to coordinate with States and with guaranty agencies and with accrediting bodies to maximize our combined on-site review capacity. These steps will enable us to employ our resources even more effectively.

If you think about the number of different actors that are going in and doing on-site reviews, we need to think about how we can work more effectively together to assure that we are not providing unnecessary, undue burden on the institutions and that, in fact, through our combined efforts we are actually increasing the effectiveness of our reviews.

We also have reorganized the Office of Postsecondary Education, the office for which I am responsible, to strengthen our monitoring and oversight efforts and to enhance our efficiency. In the student financial assistance programs, we have now consolidated all offices with monitoring and gatekeeping responsibilities, where before they were scattered among various units. Placing all of these functions in one unit provides better coordination and permits more effective program management. And I could discuss with you specific examples of how this has already improved the management of the program.

Data verify the impact of our monitoring and management improvements. As a result of the program reviews, assessed institutional liabilities for fiscal year 1993, which are $337 million, were up substantially from the $226 million assessed liabilities the year before. This is due largely to a policy decision made in 1991 to emphasize the quality of reviews over the quantity of reviews. Our reviews are now longer and conducted by two specialists rather than one. In addition, enforcement actions increased markedly during the fiscal year just completed, fiscal year 1993, over the previous year. We had 163 institutions terminated, an increase——

Chairman NUNN. Now, that is terminated from what, the student loan program or the Pell Grant?

Mr. LONGANECKER. That is terminated for the Pell Grant program.

Chairman NUNN. For the Pell Grant program.

Mr. LONGANECKER. That is right. That is an increase of 40 percent. That is actually termination for title IV eligibility, which includes both. Fifty-nine emergency actions were taken, an increase of 97 percent, and 56 debarment actions were taken against individuals, an increase of 51 percent.

Chairman NUNN. How many cases were referred to the Justice Department for criminal prosecution? Do you have that?

Mr. LONGANECKER. I do not have that, but I will try to get that from staff.

Chairman NUNN. Were there any?

Mr. LONGANECKER. Yes.

Chairman NUNN. There were some?

Mr. THOMAS. We can provide that for the record. I do not have it in front of me, Mr. Chairman. We work very closely with Justice in prosecutions.

Chairman NUNN. Do we have people, Mr. Thomas, in your opinion, in the enforcement area of the Department—I am not talking about in your area, IG, but I am talking about in the other area—that have enough criminal background to be able to detect a criminal cause of action when they see it?

Mr. THOMAS. We believe that there are some, Mr. Chairman. My staff has worked over the years with program staff in some of the regional offices to provide training, and I do believe that there are some people in the field who have such skills. I do not believe, however, that it is very widespread, not as widespread as it should be.

Chairman NUNN. That is an area of training you are going to have to have, isn't it?

Mr. THOMAS. Dr. Longanecker and I have spoken of that, and I have volunteered our resources to help with that.

Mr. LONGANECKER. I should correct. We do not refer things to Justice. An issue that looks as though there is criminal behavior involved, we refer to the IG's office. I talk of Jim as a colleague and as part of the "we," but I also assure you that I understand—and he has told me many times—the distinction that he has and the special relationship he has to you folks. And so we refer it to the IG's office, and they ultimately refer it to the Department of Justice if it requires that action.

What I would like to say is that we need to work with you and your colleagues in the Congress to develop a clearer consensus, as we talked about earlier, on the standards that we need in the Federal Pell Grant program's performance. Regrettably, we have not always had consensus even within the Congress on such standards, leading sometimes to circumstances that many find untenable.

For example, some students have received Pell Grants for a longer period of time than reasonably necessary to complete an undergraduate degree program, including one student who we know has received Pell Grants for 18 consecutive years. The restriction, added in the 1986 statute, on the number of years in which a student could receive a grant was then removed by the Congress in the 1992 amendments, over the Department's objections.

Chairman NUNN. What was that restriction?

Mr. LONGANECKER. That was the restriction that allowed a student up to 5 years' use of a Pell Grant program. In fact, in actual fact, we have twice had that in the program, in——

Chairman NUNN. But that was not being enforced——

Mr. LONGANECKER. Yes, it was. It is interesting. This is quite a story. All students were grandfathered, so the earliest it really could have gone into effect would have been in about 1993. But it was——

Chairman NUNN. What year was that put into effect?

Mr. LONGANECKER. It was put into effect—actually, it has been in law twice. In the 1976 amendments, it was put in, and taken out in the 1980 amendment. In the 1986 amendments, it was put in and taken out in the 1992 amendments. So just as it was beginning to have some teeth, in 1992 it was eliminated from the law.

Senator COHEN. Could I ask a question, Mr. Chairman?

Chairman NUNN. Sure.

Senator COHEN. If we were to put a restriction back into the law now, do you favor that we grandfather existing enrollees?

Mr. LONGANECKER. No.

Senator COHEN. There is no constitutional right to say once you get a Pell Grant that you have some kind of vested right to continue under existing law, is there?

Mr. LONGANECKER. I would not suggest that. My attorneys might suggest otherwise, and wise counsel might suggest that we would be somewhat vulnerable. But I do not believe there is any——

Senator COHEN. You would recommend we eliminate any grandfather clause?

Mr. LONGANECKER. That is correct. I would. You might want to phase it in over a year or two so that people can finish up their program if they have been kind of taking a while. But I am not sure I would propose exactly what we had before, but I think we have to think intentionally about what the purposes of this program are. Is it program completion? If program completion is a purpose of the program, then we ought to have some performance standard for that. That is the dialogue that we want to have with the community.

We have already begun some discussions with the higher education community, with congressional staff, and with others to begin this discussion so that we can come back to you with some ideas to share, and then carry that through the legislative process so that we can get a clearer set of standards for this program, so that we can convince you and your colleagues that the money is being well spent on this extremely valuable program and that we can demonstrate that more affirmatively than we can today.

Chairman NUNN. I would like to put in the record at this point my questions to Secretary Riley[1] and his response of October 13th to my questions,[2] which goes into considerable detail about the number of recipients and the time that they have had the Pell Grants. So at this point in the record, without objection, that will be part of the record immediately following your testimony.

Mr. LONGANECKER. I think in general it is fair to say that the Department has not always received support from Congress for efforts to strengthen program integrity when our measures were perceived to reduce access to the program. Access is the goal of the program. What we need to think about is how we define access. Is it access to success, or is it just plain open-ended access? And we need to have a very serious discussion about that.

Chairman NUNN. You are going to have to think through proprietary schools, too.

Mr. LONGANECKER. Absolutely.

Chairman NUNN. For instance, if you go and get a certificate from one proprietary school, then are you eligible to go get a certification from another one and another one and another one? And then after you have done all that, are you eligible to get a degree in college? So there has to be some refinement here in terms of that. I think we have to think through that one because certainly we want people to be encouraged to change their skills if the markets demand that.

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[1] See Exhibit No. 84 on pages 343–344.

[2] See Exhibit No. 84 on pages 345–350.

Mr. LONGANECKER. We certainly agree with that, and we think we need to have that set of discussions. We have begun those, as I mentioned to you, and we intend to have that as part of our future policy agenda within the Department of Education. And we will be coming back to have further discussions with you about how you think we should proceed.

Chairman NUNN. There is an underlying question here that all of us are going to have to face, and maybe the answer is clear, and maybe we already know it. I do not, but perhaps Mr. Thomas could answer this, maybe Mr. Longanecker, too. Is it possible for the Federal Government to simply send out checks to people and have a program that really has disciplined and adequate oversight in monitoring? Is it possible? Mr. Thomas, you come close; it seems to me you are hinting in your statement, saying the very nature of the program itself mitigates against the kind of oversight and the kind of efficiency that all of us desire. Are you saying that, or do you believe it is possible to be able to properly regulate this program?

Mr. THOMAS. I believe it is possible, Mr. Chairman. I think it is going to take a lot of work. I think that some of the early stages that Dr. Longanecker has taken are along the right direction. But I am not 100 percent sure what those controls are. Because once we begin to talk in terms of doing everything electronically and having no paper, or very little paper, and no certifications, then holding people accountable is very difficult to do. And I think this is where Dr. Longanecker's staff and my staff are going to have to work very close together to make sure that people can be held accountable and that this program is administered with integrity.

Chairman NUNN. Well, Mr. Thomas, what do you think we are learning here that applies to the direct loan program? Or do you believe there is an analogy between the Pell Grant program and the program you are about to embark on on the direct loans from the Government?

Mr. THOMAS. I certainly believe that if the direct loan program is carried out with contractors, then we have some of the same kinds of issues, that we will have to make sure that the mistakes we have made in the past are not made in the future.

Chairman NUNN. If you are going to carry it out with contractors, what is the difference in carrying it out with contractors and doing it the way it was being done before, which essentially was with contractors? They happened to be called banks.

Mr. WURTZ. Mr. Chairman, could I respond to that?

Chairman NUNN. Yes.

Mr. WURTZ. We believe that there is a vast difference between using contractors and the current guarantee program's use of guaranty agencies and lenders. There is basically no incentive in the current program for reducing defaults—or risk on the part of the existing participants in that program. Neither the banks nor the guaranty agencies have had any risk. Basically it has all been Federal money.

So in spite of the fact that we have been able to have provisions where the Secretary could fine a particular guaranty agency or where we could reduce the payment if certain due diligence amounts were not paid, in essence for the guaranty agency that came out of Federal reserves. It came out of Federal money. There is virtually no investment in the program except the Federal Government's.

Now, when you look at the current Pell program or the guaranteed loan program, you have rightly characterized these in many ways as an honor system. Now, for the vast majority of schools involved in this, that honor has proved to be well founded. The issue that we have to face under any honor system——

Chairman NUNN. We think that, we hope that, but I do not think anybody has demonstrated that. I mean, you do not have the monitoring system; you do not have the controls; you do not have the data system; you do not have the cross-references. You do not have anything in effect that will allow you to make that statement with confidence. I hope you are right.

Mr. WURTZ. What our audits——

Chairman NUNN. But your IG says that he does not know, and if he does not, I am betting you do not either, Mr. Wurtz.

Mr. WURTZ. What our audits have shown to date have been isolated instances of individual schools primarily in the proprietary sector.

Chairman NUNN. But you have not have many audits.

Mr. WURTZ. We have had a number of audits in the General Accounting Office in which I supervised the financial audit of the program and looked at a number of banks and a number, almost the vast majority, of the guaranty agencies.

Chairman NUNN. So you are telling us you are confident about the amount of loss we have had on Pell Grants?

Mr. WURTZ. No, I am not content with the amount of loss we have had. It is too much. There is a zero tolerance for loss in the Congress. There is a zero tolerance for losses on the part of the American taxpayer. And they have a right to that. We have to tighten up.

The key in a program which is an honor system, and by law—this is an advance-funded program—is gatekeeping. If we do not have adequate gatekeeping at the very beginning, we have got a problem right from the start.

Now, for example, regarding adequate gatekeeping, the financial ratios that we recommended to the Congress in the reauthorization was a 1.25-to-1 asset-to-liability ratio. The Senate removed that ratio and put a 1-to-1 asset-to-liability ratio. That means that——

Chairman NUNN. What was the rationale for that? Not being on the Committee that handled that, what was that rationale?

Mr. WURTZ. I could not give you their rationale, Senator. But what it means is that, in essence, schools with no net worth—and because the ratio is not even required to be determined through the application of generally accepted accounting principles, and can value their assets at current market value, means that schools with a negative net worth can actually be allowed into the program.

So if we do not stop it up front, it gets very hard to catch it on the other end, and the only way you catch it is through audit. In any program that is caught through audit, you are going to have a given amount of abuse.

Senator ROTH. Could I ask a question, Mr. Chairman? Is it fair to say that a significant part of the problem of trying to tighten the program is right here in the Congress itself, that there is no consensus, that there are those who do not think we should have such limitations? Is that a significant part of the problem?

Mr. LONGANECKER. I would say that a significant part of the problem used to be in our gatekeeping functions, that the reauthorization of the Higher Education Act last year gave us very powerful tools to improve our performance in the Department of Education, to substantially enhance the role of the States in assisting us, and to provide the resources necessary to them to do that, and to enhance the responsibilities of accrediting agencies.

We had that triad before, but it did not work. It did not work at all because everybody blamed everybody else, and the responsibilities of those three actors were not clearly identified in the statute. The statute now does that. That will help us immeasurably in this program. We will have much better gatekeeping.

A great deal of the problem also has rested with the management within the Department of Education. We have the data, but we do not have the data management systems to allow us to use it. We have controls that we put into effect. We have reports generated that we do not pay attention to, or have not traditionally paid attention to. And so what we have to do is improve that management.

There is a third major issue on which there is not clear consensus that is what we mean by access to this program, and this is an area where we need to work with the Congress and where, in fact, some of the dissonance certainly exists with the Congress.

We have a request up right now to make it clear that institutions with default rates that exceed the legislated limits are not going to be eligible for the Pell Grant program. That seemed real clear to us in the legislation, but in actual fact, it was not as clear as it needs to be. And we need clarification so that we can get rid of those institutions that have those high default rates. And yet we will have difficulty.

Chairman NUNN. You mean your lawyers are telling you now you do not have that authority under the law?

Mr. LONGANECKER. The lawyers did not tell us that. The judges told us that. Well, they have not told us that. They have held us in abeyance. And so we need to make it clear that that is the intent of the law, that institutions with high default rates are out of the program. We think that is appropriate, and we want to pursue that. We have a technical amendment before you folks that will help us in that regard. And yet that is not uniformly supported because there is, from our perspective, some question as to whether access for students means broad access to institutions to participate in the program.

Senator ROTH. Is that the nub of the problem, that there are those in Congress that really do not want to restrict access?

Mr. LONGANECKER. Every Congressperson I have talked to wants us to manage this program more tightly. On the other hand, when it comes down to an institution that happens to be in their general jurisdiction, it is a different story. That is obviously a more legitimate institution than the other ones we should be shutting down.

Senator ROTH. I think you are being very diplomatic. [Laughter.]

Chairman NUNN. Well, the dilemma here is that the schools that have the highest number of low-income students are the ones who have the hardest time managing the program. That is the difficulty.

Mr. LONGANECKER. Yes.

Chairman NUNN. And the difficulty is when you start cutting off an institution that has an awful lot of low-income students, then, in effect, those students themselves suffer. You are trying to punish the institution, but you end up hitting the students. And that is the ultimate dilemma.

Mr. LONGANECKER. Senator, that is true if, in fact, those students were being benefited by that educational program.

Chairman NUNN. And if it is not, that is right. If the education program, which we have run into many of them in the proprietary school area that were not worthy of anybody going to school there. A number of them are, but a number of them are not.

Mr. LONGANECKER. That is true.

Senator COHEN. Senator, could I ask a question? I was curious about Mr. Wurtz suggesting that this is really not a significant problem. While the dollars involved in some individual cases may be, he does not seem to believe it is widespread. I would like to know what Mr. Thomas feels about that.

I share the Chairman's skepticism that if we have this particular type of situation in one small area, it is not confined or unique to those schools which have been investigated, but that it is much wider. I understand for example, that one U.S. attorney recently said that the manner in which the funding of the Pell Grant program is administered by the Department of Education would impress most jurors as a program designed to be abused.

Now, Mr. Thomas, would you care to comment as to whether you think this is an isolated situation confined to New York City?

Mr. THOMAS. I do not believe it is an isolated case, Mr. Cohen. As I indicated, we have had cases around the country, and we continue to have them. It is not isolated.

But we do not know how big it is. You see, the difficulty we have is that there is no report that says this is the amount of fraud that there is out there, this is the amount of fraud that is in my institution. And so we come down, then, to how do we get involved in it, how do we know about it, and how do we take care of it.

The fact of the matter is that I have almost 900 cases in my inventory now that the staff is working on. About a third of those are institutional cases, against owners and business managers and the like of proprietary institutions in this case. We have about 100 convictions a year, which is about all that we have indictments and convictions of. And so the volume of cases and the substance of these cases continues to grow. And the more and more that we have gotten into the complexity of computer transfer of data, the more difficult it is to prosecute; the more difficult it is to convince a prosecutor that he can sell it to a jury, because it is a very complex kind of thing.

You can look at the schematic on the wall[1] there and see the complexity of the flow of paper in this program. And as a consequence, you are limited as to the volume of activity you can get prosecuted at any period of time. And we, because of the size of the staff that we have, are very limited in the number of cases that we can have going at any time, especially when they are complex school/institutional cases. And as a consequence, there is just no possible way for me to give you a number to say that 3 percent of all the Pell Grant is fraud or 6 percent or one-half of 1 percent. I just cannot say.

But I do believe that most of all the cases that we get involved in have a problem. That I do know.

Chairman NUNN. Do you have any provision in the law or regulations that give you the authority when a school or institution does not cooperate in an investigation by your policy people or by the IG to cut off funds for that school?

Mr. THOMAS. There are provisions, Mr. Chairman, where if we go in and we are denied access to records or we are denied reasonable access to the people in that institution, that we go back to the program staff and we tell them of that denial. And there are provisions in the regulation which would say that they can take action against that school. Now, due process comes into place.

We also have a second vehicle in that if we are denied access to records, we can subpoena those records. But frequently, in a very complex case—and we have had several—that subpoena is then challenged, and then we spend 2 years in court. We always win, but we spend 2 years in court fighting it.

Chairman NUNN. I would like for you to come up with a streamlined procedure that you believe would hold up legally and suggest it to us in terms of legislation. I think it is outrageous for an institution not to cooperate with a Federal Government investigation and to be able to continue to receive a flow of Federal funds while that is happening.

We have run into it here. You say you have 900 cases; 300 of them are institutional cases. We have looked at several institutions in the course of this investigation, and we have had zero cooperation, virtually.

Now, that is not Molloy. We are going to hear from Molloy College later, and they have been very cooperative. But we have had some of the New York City schools that have absolutely adamantly refused to cooperate. At the same time, the money is continuing to flow. I think that is outrageous and unacceptable, and I think we need the tightest possible statute that we can get to give you the authority, when an institution does not cooperate with either you or with a legitimate Government investigation—whether it is the Department of Education or some other legitimate Government inquiry—that you have the right to cut off the flow of funds.

Mr. THOMAS. We will take a look at that, Mr. Chairman, and work with your staff on developing something. One of the things that we have found very successful is that when we are denied access, then we go back to our own office and we have our attorney call the attorney for the school and explain to them what are the repercussions. Generally speaking, that smooths the way for us to go in and have access to the records and the people. Nine times out of 10 it works. That tenth time it may not, and I think that is the time that we are talking about here.

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[1] See Appendix L to Staff statement, page 196.

Chairman NUNN. Let me run through a couple of questions here on the particular investigation we are having, and I would ask Senator Roth or Senator Cohen to interject at any point in time. We will make this rather informal in terms of yielding. I will be glad to yield to either one of you to follow up or ask your own questions at any point.

We have 21 schools, Mr. Longanecker, that the Department of Education took action against in the last couple of weeks. The Department, I believe, found that they did not meet the requirements of the Higher Education Act. How did you learn this? These are the schools in New York that are the subject of this inquiry.

Mr. LONGANECKER. That is actually, I think, a good example of how our changes in the organization of the Office of Postsecondary Education bore fruit. Originally we had two units of the Department of Education handling certification and the accreditation process. The recognition of accrediting agencies was handled by our Higher Education Programs unit. And the certification of institutions, on the other hand, was done in our financial aid office.

When we reorganized we brought those together, and it was actually with the staff working together there that we discovered that what one staff knew about the accrediting association was not understood and known by the group that was looking at the eligibility of the institution for——

Chairman NUNN. Both staffs in the Department of Education?

Mr. LONGANECKER. Both staffs within the Department of Education making discrete decisions, both of which were technically correct but not fully understood by the other. In this case, that accrediting association was approved by the Department of Education, but it had two tracks. It accredited both avocational and vocational programs. And so the one staff looked and saw that it was approved by the Department. They assumed that the institutions were, therefore, eligible as accredited institutions. As it turns out, they were not because they had been accredited only as avocational institutions by this particular accrediting association and not for their vocational programs, even though some of them had vocational programs.

So once we discovered that, we worked with the accrediting agency. We reviewed all of the institutions that were approved by that accrediting agency, and the 21 institutions that were affected by that were notified——

Chairman NUNN. But why were they disqualified?

Mr. LONGANECKER. They were disqualified because they are not accredited by an approved accrediting association to provide vocational certification programs, or certified——

Chairman NUNN. Why didn't your accrediting people catch that?

Mr. LONGANECKER. The accrediting people should—there is no doubt that we should have captured this along the way. The reason our accrediting people didn't capture it is because it was legitimate for them to have two streams, and they approved them for both streams. In fact, that other stream is legitimate for some other Federal purposes, some veterans' benefits and other things.

Chairman NUNN. But isn't the bottom line that to be eligible for Pell Grants, as I understand it, you either have to have an institution that is making students eligible for a bachelor's degree or for some kind of vocational certificates?

Mr. LONGANECKER. Absolutely. We should have——

Chairman NUNN. But these schools didn't do either, did they?

Mr. LONGANECKER. Some of them did, but they were not accredited to do so. So, in fact, on a program review, the program reviewer would see that there were programs that, in fact, seemed to lead to a certificate or diploma, and yet they did not realize that the accreditation that had been received was not received on the basis of those being certified programs.

It was a bit convoluted in the way it worked. We clearly, I think, should have picked that up. It does not excuse the fact that some of these institutions may have misrepresented themselves to our staff at one point or another. On the other hand, it was poor management, and we should have been on top of it.

I hope one thing that is coming through today is that we are on the same team here. We agree with you. We need to do a much better job than we have done. We have already, we think, taken some strides. I would give some credit to my predecessors over the last 2 years. There have been some very good things that have been put into place that started under Deputy Secretary Kearns' administration at the Department of Education, and I believe that they have made substantial progress and we are continuing that. We believe we have to manage this program better, and I would say we think we are up to the task, and we think it is a doable task.

Chairman NUNN. Senator Cohen.

Senator COHEN. Mr. Chairman, I was just going to add, in addition to being accredited by nationally recognized accrediting agencies certified and approved by the Department of Education, that particular school has to be legally authorized to offer such a program by the State in which it is located. And as I recall, yesterday's testimony indicated that one of the two schools that we were talking about was not even authorized by the State of New York. So the question is: How do you get by that one? Or how did that get by you, I should say?

Mr. LONGANECKER. I do not have a good answer for how these made it through the sieve in the past. What I can tell you is I think the new gatekeeping functions themselves with the new State Postsecondary Review Entities (SPREs), now all institutions will essentially go through this kind of review and preparation.

Senator COHEN. Mr. Thomas has recommended, as I read his testimony, that we have some sort of a computer edit check—is that right, Mr. Thomas?—that prevents students from getting grants from different schools.

Mr. LONGANECKER. This summer we have implemented such a report writer.

Senator COHEN. Well, the question I have, No. 1, is how quickly can it be implemented? And, No. 2, how quickly can it be evaded? As I listen to you, Mr. Thomas, you are saying the more computerized we become, the more difficult it actually is to make a case against these schools. But the more important question for me is that it seems that anyone who is creative enough, as we have seen in these particular cases, to evade the requirements of the law itself would not have much difficulty in coming up with different names for the same student to acquire more than one Pell Grant from different schools. So just by changing a name on a computer printout is not going to be much of a check, in my judgment.

Mr. LONGANECKER. Actually, I would really like to have a chance to respond to that. One of the things we can promise you is a lot better management. We can promise that, and hopefully in the next year or two, I can come back and demonstrate that to you.

What I cannot promise you is that we will do away with criminal behavior in programs, criminal behavior, fraud, and abuse. Where you have a large $6 billion program, you are going to find some creative individuals out there who will break the rules in order to promote their own gain. And the computer does give them some additional capacity to do that. As I think you discovered yesterday, this was a very organized and smartly constructed scheme that occurred over the last couple of years. This will not be the last time that occurs.

Chairman NUNN. It may have been over a lot more than the last couple of years. It may have been for years and years and years and years that this has been going on. One of my questions was going to be: Didn't you open an inquiry in 1981 on this same area? Hadn't the Department been involved and been informed over the years that these abuses were going on?

Mr. THOMAS. Yes, sir. There was a case in the early 1980's, Mr. Chairman. There were a number of schools that were investigated, and in working with the Department of Justice, they decided to combine those schools into one case and pursue it in the strongest case. And they did that, and there was a prosecution and a conviction, one of the other schools, and then there was a pretrial diversion of a couple of other individuals at that institution. So there was that.

Chairman NUNN. But that did not alert the whole accrediting and policymaking part of the Department of Education to take a look at this whole area in the early 1980's, a criminal prosecution and nothing happened?

Mr. THOMAS. I believe since that time, Mr. Chairman, many of the reports and reviews that have been done have reflected similar kinds of issues.

Senator ROTH. Mr. Chairman, could I ask a question?

Do schools which are dropped from the student loan program because of high loan default rates continue to be eligible for Pell Grants?

Mr. LONGANECKER. Most of them are.

Senator ROTH. Most of them are.

Mr. LONGANECKER. If they are very high level, we have to take some administrative actions that can lead to their elimination from eligibility.

Senator ROTH. Should they be eliminated as a general rule?

Mr. LONGANECKER. I think that would be a very good issue for us to have some discussion on—I do not have the specific answer on that for you today, but that is a very legitimate issue about why you can stay in one Federal program when you cannot stay in another, given that the guaranteed student loan program is the only program for which we have performance standards.

Senator ROTH. Mr. Chairman, I think that is a serious defect that ought to be addressed as part of your study.

Mr. LONGANECKER. Now, I think it is important to keep in mind, with the schools that have been the focus of attention for the last couple of days, most of those schools were not participating in the loan programs. They were——

Senator ROTH. Do you have any idea how many schools are in this category?

Mr. LONGANECKER. Well, we have terminated over 400 schools in the last 3 years. Most of those were terminated because of the default statistics.

Senator ROTH. And how many of those are still eligible under the——

Mr. LONGANECKER. I do not have good statistics on that, but we will put that together for you folks.

Senator COHEN. Yesterday, Mr. Chairman, the staff indicated that some 4-year universities are never reviewed. Is that the case?

Mr. LONGANECKER. That has been entirely possible in the past. In fact, we have a quality assurance program which provides that if they participate in that program, one of the rewards is that they do not have to have program reviews. These are institutions that every indicator suggests are extremely well managed institutions.

Chairman NUNN. Does this include, Mr. Longanecker, the sample that Mr. Thomas revealed in his earlier testimony where he said 30 to 40 percent of the schools out there have up to several hundred thousand dollars in overage payments on Pell Grants?

Mr. LONGANECKER. No. Any institution that any indicator suggests has financial management issues would not be in our quality assurance program, and thus would not be exempt from reviews.

We use a set of criteria very similar to the ones that Jim Thomas was referring to that allow us to identify the institutions where Federal funds are most at risk, and that is how we determine which of the institutions we will review. What we have done——

Chairman NUNN. Mr. Thomas, on your list that you reveal, will any of those schools—were all those schools in the at-risk area that require review, or were some of those on the—what was the other list you called it where you did not review them?

Mr. LONGANECKER. There actually would be sort of three categories. There is the most at risk, which are the ones we will review this next year, the 400 or so each year that we will go in and review in depth. Then the other end of the continuum are the quality assurance schools, which are the ones that have demonstrated that they have strong financial management.

Chairman NUNN. Well, I would ask Mr. Thomas, when you talked about the institutions that had an overage in Pell Grant payments and you said it was 30 to 40 percent of the sample you had, were those quality assurance schools or at-risk schools or a mixture of both? What were they?

Mr. Thomas. I do not know the answer to that, Mr. Chairman, but I would be happy to go back and have the staff take a look at it and put it in the record.[1]

Chairman Nunn. Because if we are running into quality assurance schools with this kind of problem, you have a problem with your quality. You have a quality problem with your quality assurance.

Mr. Wurtz. Mr. Chairman, with regard to the excess cash problem——

Chairman Nunn. Could we get a list of those schools, Mr. Thomas, and the criteria that would apply to each one of them?

Mr. Thomas. Yes.

Mr. Wurtz. With regard to the excess cash problem that Mr. Thomas refers to, there are a large number of schools. Part of that problem is a reconciliation problem. It is a timing problem. It is often the difference between what the student assistance group within the school reports versus what the Departmewnt shows from the cash controls that we have over the schools. Normally when they hit that cash excess problem, we actually end up with additional reports coming in that show that at the point in time they did not have excess cash, and so they are readmitted to the program or their funding is continued.

But, again, I would like to emphasize we have to balance this issue of access, so access is the key here, and we have to decide on access versus controls up front.

Now, if we want controls up front in this program to know that we have a valid student that is referred to the program, that is authorized in the program, that is going to involve substantial costs to do that. That has to be balanced against what we believe to be the problem.

Chairman Nunn. I would agree that you have to balance that, and you do not want to have so many auditors out there and so many checks that you spend more on the auditors than you are wasting on the program. But in order to make that counterbalanced judgment, you have to know how much you are wasting on the program, Mr. Wurtz.

Mr. Wurtz. That is right.

Chairman Nunn. And we do not.

Mr. Wurtz. Yes, and that is what we want to find out. That is a key point.

Chairman Nunn. And you do not know how much floating—you know, if it is $2 million floating out there around the country that is excess, that is one thing. If it is $200 million, it is another. If it is $2 billion, it is another.

Mr. Wurtz. We believe it is about $200 million, but I will get you that number.

Chairman Nunn. That would be helpful.

Also, Mr. Longanecker, I would also like to show you a letter from the Justice Department to the Department of Education dated February 1981—well, that is the date it was received.[2] I do not have the date of the letter.

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[1] See Exhibit No. 93 on page 484.
[2] See Exhibit No. 87 on page 351.

Chairman NUNN. Anyway, there is a list of 57 of these schools attached to it. A number of these schools that are part of the investigation we have now unfolded in the last day or two were on this 1981 list. That brings to mind the question of—and I would hope you would research your records and furnish this for the record. I would like for you to see how many times over the years, going back to whatever time frame you believe is appropriate—I would think the 1970's—these same type schools have come up on your scope of having abuses. That will indicate, I think, whether these schools were basically just ignored, whether the problems were ignored, whether they were given favorable treatment.

It seems to me that when you have a list of these schools in 1981 and then 12 years later the same schools are appearing, there is something really badly wrong beyond just the system. This is not something that slipped through the cracks completely. It was known in the Department of Education.

Mr. LONGANECKER. That is correct. And what I would say is that where our management is concerned, our employees are dedicated, doing the best job they can, and so I do not think it is the quality of the people we have working for us. It is, to some extent, the training that we have been able to provide to them, and it is very much the management systems we do or do not have. We have to do a better job in that regard.

Don Wurtz and I have talked a great deal about improving the management systems so that we have the data systems that are necessary. We are, in fact, currently developing two data systems that will substantially improve our ability to manage these programs. One is the National Student Loan Data Base, and the second is one we call the PEPS, which is the Postsecondary Education Participants System, which will allow us to essentially have the data base manager that we need that brings all of the data together. We have an awful lot of data, but, in fact, it is very difficult for one of our employees to put their hands on much of that. And so this will substantially enhance their power in doing quality reviews and quality oversight of these programs.

Senator COHEN. Mr. Chairman?

Chairman NUNN. Senator Cohen

Senator COHEN. I would like to come back to Mr. Wurtz's comment. You indicate, rather than a $2 billion problem, it may only be a $200 million problem. It struck me that anybody watching this hearing outside the city of Washington might be horrified at that number. We toss around figures like $1 billion or $2 billion or a couple hundred million here and there. I know that my constituents say, "You are losing $200 million on a program?" And that is sort of——

Mr. WURTZ. Senator, I did not say we are losing $200 million.

Senator COHEN. Unaccounted for?

Mr. WURTZ. No. The question of having too much cash on hand in the schools, which is referred to as an excess cash problem. It does not mean any money has been stolen. It means that supposedly they have drawn in excess of what they should draw. They are allowed to draw by law up to 24 days in advance of their needs. So there is an amount of cash on hand that they can have under the program.

Now, frankly, what I would prefer is a situation in which there is absolutely no excess cash—for example, where the float is totally to the Government's benefit—and such systems are possible. We are investigating the possibility of how can we implement such systems to enable us to retain all the float where we do not have to have cash out there at the schools.

Senator COHEN. Let me ask you the question, then: How much does it cost to get the quality management you have been talking about here this morning?

Mr. WURTZ. We believe that that is what we are working on right now and that we want to have in-house and that we are implementing programs to be able to bring that about.

I can assure you that these issues that the Committee has raised and that have come to our attention we find as appalling as you do. We believe there should be zero tolerance, and we are going to do what we can to make sure that these problems are corrected.

Senator COHEN. Let me make one other suggestion to you. Dr. Longanecker, you indicated that we are all on the same team, and we are. And it is very easy for us to sit here and hurl some thunderbolts down at you sitting at the other end of the table. But I must say, I think it is important for those of you who are on the other side of that table to really alert us to our contribution to the problem.

As I look down this list—Senator Nunn submitted a list of questions to the Department—it was staggering to me to see that we have some 4,000 recipients who have received Pell Grants in excess of 11 years. Starting at 11 years, there were some 2,600, and then 12 years, another nearly 1,000, on down to the point where you had one with 17 years. It struck me as being an outrage, and then to learn that, in fact, in 1986, there had been a statute put into effect to put limitations on the time frame, and then we removed it in 1992. It seems to me it would be very, very important for you to raise high the roof beam. Every time you see Members of Congress who think they are doing something positive by giving more flexibility to the Department, and the Department sees this as an avenue, potential avenue for abuse, call it to the attention of the members as loudly and as clearly as possible. Because if we are contributing to this thinking that we are making a positive contribution when, in fact, it is negative, and then we come back 2 years later and start to take the criticism or level it at you for problems that we have contributed to, the public ought to know that as well.

So it would be very helpful, if you see us doing something which in any way is going to contribute to, or aggravate, the problem, let us know as clearly and as loudly as you can.

Mr. LONGANECKER. Well, I appreciate that, and we will do that, I can assure you.

Senator COHEN. And that means when it comes down to either our universities or schools who are seeking to qualify, not to bend to the importunings of any of us. That is something that you ought to be raising a good deal of Cain about.

Mr. THOMAS. Mr. Cohen, perhaps this is an appropriate time to continue a point that Don Wurtz made a moment ago. He alluded to the fact that the Senate had just passed an amendment dealing with the 1-to-1 ratio as opposed to the 1.25-to-1 ratio. The part that he did not bring up is that the Senate in that same process decided that it was appropriate to add the equity in real estate to the current asset column in order to build up that asset, so that it would be easy to meet even the 1-to-1, which is a clear deviation from any kind of generally accepted accounting principles that I ever heard of. So that is one that you might keep in mind.

Mr. WURTZ. And, in effect, allows a school with a negative net worth to enter the program.

Chairman NUNN. Mr. Longanecker, I would like to follow up on Senator Cohen's question about pressure from the Congress. All of us represent constituents. All of us are going to be responsive when a school in our district or our State is basically put under jeopardy in terms of closing down. We are certainly going to inquire into the Department as to what is happening. So I think there has to be a distinction made between legitimate congressional inquiry and pressure.

But my question to you is: How much undue pressure—and I use that word "undue" carefully—are you getting from Congress in impeding your ability to manage this program? By that I mean individual Members of Congress. I am not asking for names now. I am asking for—if you want to give them, you can give them.

[Laughter.]

Senator COHEN. Do you keep a diary?

[Laughter.]

Mr. LONGANECKER. Well, what is one person's undue pressure might be another's subtle inquiry.

Chairman NUNN. Well, you have to make that judgment, though. You are a policymaker. Are you able to manage your program?

Mr. LONGANECKER. Yes. I have not——

Chairman NUNN. Or are you getting so much pressure from individual members you cannot properly manage it? That is the question.

Mr. LONGANECKER. I have not to this point—and I have not been here a long time. I have been here since I was confirmed in June. I would say that during that period of time we have had a lot of congressional inquiries. I have not personally felt that the nature of any of those were such that they would threaten my continued employment with the Federal Government or something of that nature. So in terms of undue pressure, there was one that I thought came pretty close early last summer, but that would be the closest. I have not found this to be a prevalent problem.

I would tell you that at least on the anecdotes that have been shared with me from staff and others, I do to some extent blame my predecessors for not protecting the career staff adequately in this area. Career staff should not be presented with a substantial amount of pressure from congressional influence. That is in part what we have political appointments for. And it seems to me that it is part of my job to deal with that issue and to not subject the career staff to that because, in fact, a subtle inquiry from the Hill to a career staff can be extremely threatening. You know, they are here for the duration, and it is a very awkward situation when they are called on the carpet before a Congressperson or congressional staff.

Chairman NUNN. Does that happen often?

Mr. LONGANECKER. I hope it is not happening often at the present time. It should not be. I believe it did happen on occasion too often in the last few years.

Chairman NUNN. Well, I would ask you to report to this Subcommittee if you believe you are being given counter pressure from Congress, individual members, that prevents you from adequately protecting both the students and the taxpayers of this country in your job.

Mr. LONGANECKER. I will accept that invitation. Boy, I am getting some nice offers here today.

Chairman NUNN. Well, I think those kinds of things have to be made public. I think that is the only way we can handle it. If not, it gets out of hand. I have seen it.

Mr. Thomas, I will ask you the same question.

Mr. THOMAS. I have personally never had any pressure at all from any Congressperson. I have heard, though, of some of the staff, as David alluded to, receiving calls, and it is always difficult for them to determine whether it is a casual inquiry on the part of a constituent or whether it is putting real pressure on them to do something they should not otherwise do.

We have had a couple of instances where there have been allegations made where the staff has said that they thought it was inappropriate to do something, and then when it got to the political appointee level, it was, in fact, done. Now, the thing that is very difficult for us to determine is whether it was done because of political pressure or whether it was done because the political leader had information that the staff did not have, which was not subsequently explained, or what. We have not had any convictions in that area. We have had some investigations, and we have worked with the United States Attorney's Office, with them, but we have not had any convictions in that area.

Chairman NUNN. Do you feel that you have the ability as an IG to be able to refer criminal matters that comes to your attention directly to the Justice Department? Do you believe anything impedes your ability to make the proper referrals when you believe it is appropriate in a criminal case?

Mr. THOMAS. Absolutely nothing. Absolutely nothing. We have open and free access to both the Department of Justice as well as the United States attorneys around the country, and we use that every day.

Chairman NUNN. Do you have enough staff to do your job adequately, Mr. Thomas?

Mr. THOMAS. No, we do not, Mr. Chairman. As I indicated, we have an inventory of 800 investigative cases ongoing. We have programs that we have never looked at since we have been a Department, 13 years.

Chairman NUNN. Have you ever audited any of these contractors that handle Pell Grant applications?

Mr. THOMAS. We have, in fact, done some audit work on some of them. We do pre-award audits every time the Department makes a major contract award, and we have identified, either directly or indirectly, issues dealing with some of those contractors. The one that Dr. Longanecker alluded to of installing some controls a year ago came as a result of an audit that we did.

Where we have found that—and this kind of goes back to Mr. Cohen's point about having adequate controls in the computer systems—we have found that the central processor was not matching the default list with the application processing, and as a consequence, they were awarding what we estimated to be about $300 million a year—about 200 in loans, about 100 in grants—to students who were already in default. And so we have done that kind of work, and as a result of that have been able to get that kind of improvement into those systems.

Chairman NUNN. What are the biggest deficiencies now in your ability? If you listed the top 3 deficiencies in your ability to properly perform your IG job, what would they be?

Mr. THOMAS. Resources, resources, and resources would be all three of them, I believe, Mr. Chairman.

Chairman NUNN. Well, the other question is—and this is without regard to philosophy about what the Government should or should not do in specific programs. But are we overwhelming the Department of Education with so many programs at the same time we are cutting staff that, in effect, you cannot do the job?

Mr. THOMAS. I believe that you are. I believe that 10 years ago the Department had 120, 130 programs. It had over 6,000 people. Today we administer well over 200 programs with about a 25 percent cut in that staff number. I think it is admirable that Dr. Longanecker feels that he can continue to not only do those programs that we already have but expand upon them with no additional staff. I think it is a tremendous challenge.

Chairman NUNN. But you are skeptical of that?

Mr. THOMAS. Absolutely. I believe that if, in fact, Dr. Longanecker gets the additional 600 people that he wants and if he hires the right people, as all indications are that he is doing, then I think they could probably pull it off. It is going to be a very difficult task.

Chairman NUNN. I have a hard time seeing how you can expand Government programs, which we are doing with education now—not just the direct loan program but many others in the last 5, 6 years—and reduce dramatically the number of people unless you come up with not only a way to reinvent Government but also to reinvent people.

It is very hard to do. That is what everybody wants to do around here, is to expand the programs and cut the people. There is something inconsistent about that. Nobody wants to get rid of a program. In some form, when you get rid of people, you have got to get rid of programs, too. I think that is a fundamental fault that we are falling into here.

Mr. THOMAS. It is my opinion, Mr. Chairman, that what happened in the Department of Education is that when it was created in 1980, nobody made the fundamental, basic, originating decision at that point of how many people are needed to run the programs. And as a consequence, it started with a base, and it has been that base which has been used ever since throughout the Department. There have been some ups and downs ever since then, but it was really that inadequate base to start with that has been the downfall, in my opinion, and many of the problems that we are talking about today are because of inadequate people, inadequate money to pay for training, inadequate money to pay for travel.

There are people who work for David who will tell you that we cannot go monitor these contractors, we cannot go to this place or that place because there is no money to do that. And I say if you cannot go and look at these organizations, if you cannot go and be there and test some of the activity, how can you assure yourself that the integrity of the operations is, in fact, working properly? And resources, again, in the form of travel funds, as well as skill and training, as well as numbers of people, are in my opinion a big, big, big problem.

Chairman NUNN. Well, I appreciate your candor, and I think my own instincts, based on everything I have had to do with this Subcommittee in investigating this, among many other programs, is that I think you are absolutely right.

Dr. Longanecker, I know you have a tough policy job, but I think one of the jobs of policymakers is to come to the Congress of the United States and to the executive branch, OMB, and the whole Government and say when you are overloaded and basically say, look, you have either got to cut programs or give us more people.

Mr. LONGANECKER. I believe we are up to the task, and we are going to do the best we can within the resources that are provided to us, obviously.

Chairman NUNN. But every new employee in every department I have seen in 21 years in the Senate has said the same thing you have said this morning: We are up to the task; we can do it; we are going to do it; it is going to be better; come see us in 2 years.

Frankly, most of them are gone in 2 years. I hope you are not. [Laughter.]

Mr. LONGANECKER. There is a difference, see? This is the best job I can get, so——

[Laughter.]

Mr. LONGANECKER. So I plan on being around here for a while.

Chairman NUNN. I do not believe that. You are smart. I can tell that. There are a lot of jobs you can get.

Mr. LONGANECKER. But I do plan on being around for a while, and I hope Dick Riley has the same feeling. And I think he does. So we are planning on being here for a while, long enough to make these improvements and be able to come back and be held accountable to you in that regard.

I would say that if we had more resources, we would do more. But we think we can do a good job with the resources we have.

I actually think part of what you are talking about is concern regarding the Department's ability to effectively manage the new Federal Direct Student Loan program, and I have reserved most of my comments today for the Pell Grant program and for the relatedness to the direct student loan program. But, in fact, we have had a huge growth in the number of small programs that we have to operate with a very substantial reduction in the staff available to do that. We have got programs now where we have no more than one person running a single program. You cannot have strong oversight of those small programs. You add a few every year. The resources do not come along with that, and, in fact, you get a slight

FTE reduction overall. And so pretty soon you are at the point where you are not doing the kind of oversight you would want.

We had a competition this year for one part of the TRIO program, for the support services program, and a lot of people were concerned that the peer review on that, where we use two reviewers instead of the three we had used in the past, did not give us as strong a review process. And they were right. In that particular area, that was a function of resources, staff resources and financial resources, available to do that.

Now, we have had some remedy in the current appropriations bill, but I think the general point that you cannot keep adding responsibilities, particularly new programs, without appropriate oversight. To some extent, in a program like the Pell Grant program, you can absorb additional students because there are economies of scale in a large program. But you cannot absorb additional institutions and you cannot face the kind of problems we have been talking about here over the last 2 days without appropriate oversight management.

Mr. WURTZ. Mr. Chairman, I would like to make a comment with respect to Mr. Thomas' statements regarding personnel because I believe it ties into the point that you and other members have made regarding the idea of an honor system and the internal controls on this. Any time you have an advance-funding program like this and a program which is, in effect, an honor system, your primary internal control, unfortunately, is audit. That is normally not what most of us, as accountants and auditors, would prefer to have.

Again, we have to balance that against the access issue and how to get the money out and make it efficient for the system as a whole. But it is very important that we have adequate auditors, that we actually get out there and do the audits that are necessary that hopefully we can provide through the systems that we are developing, exception reporting, to be able to pinpoint where we should be putting our audit resources and help the inspector general, and not only that but our own program review people, to be able to pinpoint where the problems are so that we can get to those quicker.

Chairman NUNN. I think you have got to develop a system to talk to students, too.

Mr. WURTZ. Definitely.

Chairman NUNN. In the Pell Grant program, you do not get the feedback that you do in the student loan program. The student loan program, when someone is compelled to pay back a loan and they did not get an education, usually at some point you hear about it, even if it is too late.

Mr. WURTZ. That is right.

Chairman NUNN. In the Pell Grant program, when the money is just sent out, there is no feedback from the students. You made that clear, Mr. Thomas, in your statement. I think that is absolutely clear. I think we have got to develop in the Pell Grant program some kind of random interview method to interview students and determine if they, number one, know that they are getting a Pell Grant—I hope we do not get so electronically sophisticated that people are getting grants from the Federal Government and never realizing it. But I think that is where we are, particularly in these cases we have seen right now. So do they know they have gotten a grant, and, number two, do they believe that they have gotten a quality education or vocational training.

There has got to be some feedback, and that is the output measure you said. There is nothing here. I mean, the whole program is can you send out checks. That is the whole deal.

Mr. WURTZ. Well, you have pointed out in your examination the idea of the mailbox drops that took place in this particular case. We should be pinpointing those kinds of things, and we should be having investigators on the scene. We should be having people out there who are asking those questions, interfacing with those students in those situations that we can pinpoint.

The reality is, with 7,500 schools, you cannot do it in total, but you can do a random sampling where we actually do interface with students exactly as you have suggested there.

Chairman NUNN. There has got to be something. This program is—beyond these cases, something is badly amiss here when you do not really know anything, when you measure the success of a program only by how many checks you send out.

Mr. LONGANECKER. I would like to maintain the honor system for those institutions that are honorable, and we should have better ways of measuring which institutions those are. Then we have got some others who we will have as suspects. In fact, we have the mechanism today. We have a process called the reimbursement system which, when an institution is not performing up to standards, up to snuff, we put them on reimbursement before we eliminate them from the program.

Then I would also like to eliminate the institutions from the program that are not helping students or that are ripping off the system. I think we want to do that primarily through building quality into the system, and that is why I am so hopeful and optimistic about what the new provisions of the reauthorization act give us in the gatekeeping functions, because I think that is going to help us in all three areas in very substantial ways.

Chairman NUNN. The one other thing I would ask you for the record, Dr. Longanecker, is to submit to us any statutory changes you now feel should be made.

Mr. LONGANECKER. We will do so.

Chairman NUNN. You have alluded to a couple, and you have made reference. I would like to have a direct——

Mr. LONGANECKER. We will do so, and I would like to work closely with you and your staff as we continue these discussions about where the future of this program goes and how we develop the outcome standards that will give you the comfort that this program is working in the fashion that it should be.

Chairman NUNN. Well, our Committee is only investigative. We do not initiate legislation in this Subcommittee at all, but we are in the position to recommend. And the people who are on those Committees, I have talked to a number of them. Senator Pell, of course, is very interested in making corrections. Senator Harkin has told me that he is very interested in making corrections, Senator Kennedy and many others who are involved in this. So I think that you will have a receptive audience by a large number of people.

Mr. LONGANECKER. I believe that is true.

Mr. THOMAS. Mr. Chairman, if I may add one point on a couple of issues relating to Mr. Cohen's comment as well as Don Wurtz, and share one case that we recently had dealing with a contractor who was like a management consultant, who was in the business of helping students apply for our student grants particularly, but loans also. And individuals would come into his office, and they would be referred to him by local high schools in this particular city where he was located. And he would help them with the applications and help them falsify the applications to show either independence or low income or some other qualifying characteristic.

Over a period of time, he did this for hundreds and hundreds and hundreds of students. We have identified 500 up to the point of about $800,000, dealing with 75 different institutions. And he would even have blank tax returns so that once he filled out the student application form, he would also fill out a blank tax return with falsified income figures that supported the false income data on the Pell application. And that would go in and not be questioned.

One of the things that surprised us was that one of the control mechanisms—and I think this gets to Mr. Cohen's point—is for the schools to do tests of the paperwork that comes to them. And in this case, of 75 different institutions to which this paperwork went for different students, three tested it. And it was a result of those three that it came to our attention.

So it kind of indicates to me that the system is not working, even as it ought to work, even as it is supposed to work today.

Chairman NUNN. Good point. One final policy question I have, and that is, I am informed that someone who is on a college athletic scholarship, full athletic scholarship, is eligible for a Pell Grant. Is that right?

Mr. LONGANECKER. That is correct.

Chairman NUNN. And that is by law, by regulation, or which is it?

Mr. LONGANECKER. That is by law. The Pell Grant program for all student financial aid is considered to be the foundation on which you build the rest of the financial aid package that students need.

Chairman NUNN. I am also told that an active duty military person who collects a salary from the U.S. Government, lives in Government quarters, eats in Government dining facilities, receives free medical care, and has 75 percent of the college tuition and fees paid by the military is also eligible for a Pell Grant. Is that right?

Mr. LONGANECKER. Depending on their income, that is correct. The statute requires an applicant to report salary as taxable income to be used in determining the expected family contribution. Furthermore, the statute also requires than any housing and/or food allowances be reported as untaxed income. Thus, the financial benefits provided to active duty servicemembers are considered in computing eligibility for Pell Grants. And certainly a PFC or anything below about an E–3 grade would probably——

Chairman NUNN. Even if the Government is already paying 75 percent of all the tuition?

Mr. LONGANECKER. That is correct, because the Pell Grant program provides the foundation for a student's financial aid package. That is, even if a student receives aid from other non-HEA sources, including military tuition-assistance programs, his or her eligibility for a Pell Grant is not affected.

Chairman NUNN. That is by statute. Well, I would like for you to review—I think this Department, your new Department under Secretary Riley, and you and others ought to review these statutes and look at it from a policy point of view and make recommendations for changes if you believe they are necessary.

Mr. LONGANECKER. Yes. I would remind you that——

Chairman NUNN. There may be something here. I do not know. But, I mean, on the face of it, it does not look right, particularly when you have got somebody else that is not getting enough money to be able to go to school.

Mr. LONGANECKER. I actually understand. For the 12 years prior to coming to this job, I worked at the State level with two State agencies, and we essentially factored in Pell Grants and then reduced our State grant if others did not come in. It was sort of the opposite approach to what we use.

I think one of the things that we need to keep in mind is that students face expenses other than just their tuition, and so our Pell Grants are basically designed to cover educational-related expenses, including living allowances. So there may be cases where that is legitimate.

On the other hand, we hear what you are saying, and it is, again, one of those balancing issues. I would say in general we have some concern that over the years there has become sort of a disconnection between the values that are reflected in our authorizing legislation and the financial realities of what we face in our programs, and that that has led to some fairly perverse outcomes. That is part of why we need to have the substantial discussions with the Congress over the next couple of years about how best to use those limited Federal dollars.

Chairman NUNN. Thank you very much.

Senator Cohen.

Senator COHEN. Just a couple of words, Mr. Chairman.

First, I would like to associate myself with what Senator Nunn has said about the human factor. It seems to me, as we are racing down this informational highway to a world of virtual reality, that the human factor is being either omitted or ignored or simply cast off. It is ironic that we are talking about putting more policemen on the streets to remind people that there is something called law, if not order, and what we need to have is more policemen on the streets with respect to Federal programs. We need to have more police type of activity in terms of scrutinizing and analyzing and even investigating and prosecuting. That is point No. 1.

No. 2, you mentioned we want to keep the honor system, Mr. Longanecker, for those who are honorable or the honorable schools. I hope you will take into account the fact that some schools may start out to be quite honorable and over a period of time descend from that high plateau into something quite different.

We had one school, for example, that started out with a very good reputation back in the 1980s, and yesterday we had some revelations that it has descended into something quite different. So just because it has a reputation for being honorable does not mean it is going to maintain that level of honor over a long period of time. So some review is required even of those who have high reputations.

Finally you said, "We hope to do more." It is just a play on words perhaps, but I hope you will do better, not more, but better. And I say this in the context that Senator Nunn and I have had the privilege and pleasure of serving on a number of Committees together, this one, the Armed Services Committee, and also the Intelligence Committee during the 1980s. What we found during that period of time with our intelligence agencies, was that they were suffering from informational overload. They had too much information coming in. They did not have any analysts. They had all the information but we could not tell us what it meant because they did not have the people to analyze it effectively and give us a product sufficient to formulate policy on.

It seems to me you have that problem but a different problem as well. You do not have necessarily informational overload. You do not have a collection capability. You have a collection deficiency, it seems to me. So where the agencies were getting lots of information and they could not analyze it, you are not even getting lots of good information. So it is one in which you have got to get better information and do better police work. So when you say, "We hope to do more," I hope you mean you hope to do better.

Mr. LONGANECKER. Your point is well taken.

Senator COHEN. OK.

Chairman NUNN. Thanks, Senator Cohen. I agree with that, and I appreciate all of you being here, Mr. Longanecker and Mr. Thomas and Mr. Wurtz. We appreciate your being here, and I would appreciate your submitting those several different requests to the Subcommittee.

Mr. LONGANECKER. Certainly, and thank you for the opportunity.

Chairman NUNN. Tell Secretary Riley we look forward to working with him, and with you.

Mr. LONGANECKER. We will do that.

Mr. THOMAS. Thank you, Senator.

Chairman NUNN. The Subcommittee had originally planned today to call Rabbi Michoel Meisels, dean of Sara Schenirer Teachers Seminary, and Rabbi Simche Waldman, administrator of Bais Fruma, to testify this morning. These individuals were subpoenaed to appear today, and we were hopeful they could or would provide valuable information to the Subcommittee concerning their respective schools.

In response to these subpoenas, however, attorneys for both Rabbi Meisels and Rabbi Waldman informed the Subcommittee in writing, as well as orally, that their clients would, if called to testify, assert their constitutional privilege against self-incrimination under the Fifth Amendment and refuse to answer any of the Subcommittee's questions regarding the matters under investigation.

Without objection, these letters will be made part of the record.[1]

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[1] Exhibit No. 24 retained in Committee files; see Exhibit 41 on page 279.

Chairman NUNN. This Subcommittee respects the right of any individual to avail himself or herself of the rights afforded by the Constitution of the United States. At the same time, we would have liked to have heard the rabbis' testimony. We believe that that testimony could have assisted this Subcommittee in better understanding how these schools have operated within the context of the Federal Pell Grant program.

While individuals have every right to take the Fifth Amendment, when all the officers and directors of an institution refuse to cooperate with a legitimate Government investigation, I do not believe that institution has any right to continue to receive Government funds.

In this regard, I would particularly note the fact that George Meissner, the attorney for Rabbi Waldman, was quoted in the press following yesterday's hearings as stating that the Subcommittee's hearing was "one-sided" and, quoting him in the story, "definitely not the whole story."

I would agree with that. We do not have the whole story. Indeed, Rabbi Waldman and Rabbi Meisels were subpoenaed for the very purpose of affording them the opportunity of providing the other side of the story. In fact, following yesterday's hearing, the Subcommittee once again contacted the attorneys for both Rabbi Meisels and Rabbi Waldman to ascertain whether, in light of the staff's testimony, their clients wished to testify. Unfortunately, they have chosen not to do so but, rather, to assert their constitutional rights. Of course, that is their privilege.

We understand these rights, and we respect them. We do hope that at some point the rabbis will testify fully and truthfully before the Subcommittee, and we reserve the right to call them and others at a later date. And we may well do so.

However, in light of the representations provided to the Subcommittee by their attorneys, we have determined to excuse Rabbi Meisels and Rabbi Waldman from their appearances today.

I would take further note that we were requested this morning by Mr. Leigh Manasevit on behalf of the Council of Judaic Schools, first, to read and then put in the record a letter dated October 27, 1993, on behalf of the Council of Judaic Schools.

I will put this letter in the record.[1] We do not have time to read it now. I will certainly make it available to any members of the news media.

Chairman NUNN. I would also note the irony of the fact that this same attorney who is now speaking on behalf of the Judaic School organization, a number of whose principals are not willing to testify, would not cooperate in the investigation, took the Fifth Amendment during depositions, and again asserted their rights here this morning, that is the content of that. But it is ironic, I think, that this same attorney who wants this statement to be part of the record—and he, indeed, asked that it be read aloud—was the same attorney for Rabbi Jacob Rosenbaum, who was asked by this Subcommittee to be deposed on June 30. There was a deposition taken of Rabbi Jacob Rosenbaum, who was represented by the same attorney here, Mr. Leigh Manasevit, and Rabbi Rosenbaum took the Fifth Amendment.

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[1] See Exhibit No. 91 on page 480.

So I find something ironic about this whole series. Having gone through many, many hearings where many people took the Fifth Amendment, I have a hard time reconciling some of this with the overall obligation that institutions have when they are participating in Federal programs. But that is our Constitution, and we will respect those rights. And we will reserve the right to call any or all of these people at a later point in time.

I would hope after the rabbis and their attorneys and the others in the community take full stock of these hearings and think deeply about what they have done themselves and their obligations as American citizens to basically cooperate with the Government of the United States in terms of Federal programs that they are the recipients of, I hope they would reconsider, and I would hope that at some point they would come in and testify fully and truthfully.

I would hope they would also understand that every dollar that has been wasted in this Pell Grant program is a dollar that cannot be spent to help some poor person who otherwise would not be able to go to school or would not be able to complete their education because that is what is happening. We do not have an unlimited amount of funds, and dollars wasted here, as we have seen, are coming right out of the pockets of some deserving individual who may not be able to get a full education.

Senator Cohen, I would yield to you for any statement you would like to make on this if you have any observations.

Senator COHEN. No, Mr. Chairman. I have no further statement other than to say I support exactly what you have said. I agree that the Committee should not force the individuals to come forward in front of the cameras and take the Fifth Amendment, and they have already indicated they would do that. But I must say that I find it disconcerting that anyone who is the recipient of Federal money would seek to either hinder the investigation, refuse to answer questions, refuse to cooperate even in the slightest degree with either the Committee staff or GAO or any of the other Federal investigators. I find that an intolerable situation, if an institution is the recipient of a Federal grant, that institution can continue to receive a Federal grant while it is under investigation and refusing to cooperate, I think that is something we have to pursue and remedy if we can.

I support what you have said. Once again, I know that it has been raised, this issue of are we being discriminatory, are we singling out some religious or ethnic group for heightened scrutiny well above that we might apply to any other group or institutions. I would like to categorically say that is not certainly my purpose, and I know it is not the Chairman's purpose. Over the years, we have looked at every conceivable area that we can, a wide spectrum of areas of abuse, waste and fraud. And that is the mandate of this particular Committee, and we are not singling out any group by ethnicity or religious affiliation. We want to find fraud wherever it is and attack it wherever it is. To that extent, Mr. Chairman, I think you have carried the hearings out with fairness and equity.

Chairman NUNN. Thank you, Senator Cohen. I would certainly want to consult with members of the Subcommittee before doing this, one of the matters we consider in this Committee, and I would want the people who refuse to cooperate in this investigation to understand this. We have the power as a Committee to grant immunity and to compel testimony. And we have the authority, if that testimony is not forthcoming, under compulsion after immunity has been granted, to enforce that through either criminal or civil contempt. I am not making that as a threat because those are the things we go into very carefully, and we do so only after deliberations with other members and only when we think the information is of such high value to the legislative purpose that it warrants that kind of unusual procedure, but we do have that authority. I think people ought to bear that in mind. We, in fact, have done that.

On another note, we do have cooperation and we have had full cooperation from Molloy College. And we do not agree with everything in that college's program, and we have made that clear. But I want to thank the witnesses that are appearing here this morning for being willing to appear, not only for being willing to appear but for having cooperated fully with our investigation. I believe Sister Janet Fitzgerald, the president of Molloy College, is going to testify.

If there is anyone else that is going to testify here this morning, then I would ask each of you to hold up your right hand and I will give you the oath.

Is this an attorney?

Mr. SCHURE. Yes, Mr. Chairman.

Chairman NUNN. Maybe you could introduce yourself and the people you are representing here this morning and tell us who is going to testify and then we will swear those witnesses in.

Mr. SCHURE. Yes, sir. I am Richard J. Schure, the firm of Bennett, Pape, Rice & Schure in Rockville Centre, New York, which is the home of Molloy College. On my immediate left is Sister Janet Fitzgerald, the president of the college; and on her left is Sister Patricia Morris, who is the vice president of academic affairs.

Chairman NUNN. Good. Now, will both Sisters be testifying this morning?

Mr. SCHURE. Yes, they will, Mr. Chairman.

Chairman NUNN. All right. If both of you would hold up your right hands, I will give you the oath. Do you swear the testimony you give before the Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Sister FITZGERALD. I do.

Sister MORRIS. I do.

Chairman NUNN. Thank you.

Mr. SCHURE. Mr. Chairman, may I say a few words before they submit their statement?

Chairman NUNN. Yes. Could I get the spelling on your name, last name?

Mr. SCHURE. Yes. It is Richard Schure, S-c-h-u-r-e.

Chairman NUNN. Yes, sir.

Mr. SCHURE. I just wanted to say that it is a source of some distress to Molloy——

Chairman NUNN. Mr. Schure, you are speaking as an attorney here now. If you are going to testify——

Mr. SCHURE. I am not testifying, Mr. Chairman.

Chairman NUNN. All right.

Mr. SCHURE. I just wanted to say that Molloy College has been put on the same panel with those who have defied subpoenas, those who have maybe destroyed records, those who have left the country, those who have not cooperated. And if you are judged by the company you keep, we find that very difficult to accept.

Molloy College is fully accredited. It is licensed. It is eligible for the program. And they have always been cooperative with your staff. And Sister Janet Fitzgerald would now like to give her statement. But I just wanted to point out that we did receive the staff report yesterday, and we find significant disagreement with it. But I will let Sister Janet Fitzgerald give her statement.

Chairman NUNN. Thank you, sir. And I would agree with you that you should not in any way be associated with those who have not cooperated because you have cooperated. Both Sisters have and the people at your school have. I tried to make that very clear yesterday, said it on several occasions, and I have said it again this morning. And I will again stipulate that Molloy College has completely and fully cooperated with our investigation, and we appreciate your being here this morning.

Actually, you are not on the same panel. In the same panel, we would have people all at the same table. But we just have 2 days of hearings, so this was the day that we really had to call you.

Let me give a couple of words of introduction here. Our witness this morning is Sister Janet Fitzgerald, the president of Molloy College. Molloy College is a traditional college which offers associate degree and bachelor's degree and master's degree programs. In 1987, this private school entered into agreements with outside groups to have a Molloy associate's degree program offered to recent immigrant students at off-site locations in New York City, and that was the scope of our investigation.

Sister Janet Fitzgerald, we welcome you this morning. We would be glad to have your testimony.

TESTIMONY OF SISTER JANET FITZGERALD,[1] PRESIDENT, MOLLOY COLLEGE, ROCKVILLE CENTRE, LONG ISLAND, NEW YORK, ACCOMPANIED BY SISTER PATRICIA MORRIS, VICE PRESIDENT OF ACADEMIC AFFAIRS; AND RICHARD J. SCHURE, ESQUIRE

Sister FITZGERALD. Thank you, Senator Nunn.

Senator Nunn, Senator Cohen, and staff of the Permanent Subcommittee on Investigations, it is an honor for me to be allowed the privilege to address you briefly today on a matter of extreme importance—not only to all Americans but to Molloy College, Rockville Centre, New York. I have provided you with copies of my own vita and that of Sister Patricia Morris, the academic vice president of Molloy College. I do that to take none of the precious time allowed to me this morning, but I would like to call to your attention some very important personal facts.

I have been a Sister of St. Dominic for 40 years and have taught and ministered in the field of education for 38 of them. I am from

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[1] The prepared statement of Sister Fitzgerald appears on page 229.

Queens, New York City, have taught in Queens, Brooklyn, and Long Island on all levels of education, from second grade to college. This is my 25th year at Molloy College and my 21st year as its president.

Dr. Patricia Morris is a Dominican Sister for 39 years—she is a youngster—an educator for 40 years, a professor at Molloy College for 24 years, and academic vice president for 13 years.

Sister Patricia Morris and I are Sisters, yes. We have dedicated our lives to God and to others. We did not become religious with a vow of poverty to become wealthy, famous, or to become a president or vice president of a college. Nevertheless, we are experienced, knowledgeable, respected, and dedicated educators. My point is we are experienced in the administration of a college.

Molloy College is known throughout the metropolitan area and, I dare say, in the United States and many foreign countries, thanks to our faculty, administration, and alumni who have served in various professions throughout the United States and the world.

Nurses who have graduated from Molloy College served honorably in the Persian Gulf, and our graduates also have served in the poorest regions of the world. In hospitals and schools from New York to California, Molloy College professionals are now laboring to serve their fellow human beings.

Molloy College is young by college standards. It is a mere 38 years old. Molloy College is relatively small. Our record enrollment on campus for this year is slightly over 2,000 undergraduates and graduates. All are commuters and many of them, I would say 90 percent or so, work at part-time or full-time jobs. Our college does not have a large endowment, but it is an asset to the country and the world. Our alumni and students, the people whom we have touched, inspired, and taught, will attest to this.

This is why today I must be very frank, perhaps at times even passionate in my short time with you. I hope that you understand that the very existence of Molloy College is at stake.

Personally, I am astounded, appalled, and justifiably angry at the events that have led to my presence here. At the events, not the people here. Before I begin the chronology of these events, let me say that as a Sister, an American, a philosopher and teacher of morals, I have the utmost respect for the law. In my philosophy classes, I often include the responsibilities of citizenship as well as the rights of each human being.

The motto of the Dominican Order is "Veritas"—"Truth." Every Dominican has a passion for truth. I continuously emphasize to my students the urgent duty, even in the smallest things, to speak the truth, to live up to one's word, to honor any contract. Not only are these maxims of the Natural Law accessible to all reasonable human persons, but they form the very basis of society and country. To violate truth leads to the downfall of justice, our court system, our very Nation itself.

With these preliminaries over, let us proceed to the events that have led to my presence here today. Molloy College has supplied the U.S. Department of Education, the U.S. Department of Justice, the New York State Department of Education, the New York State Comptroller's Office, and this Committee with all the documents and information requested—and, I may add, at great expense.

A summary of the case: Molloy College was brought into this investigation because of alleged abuses and mismanagement of funds on the part of one or several of our off-site educational directors. If these allegations are true, Molloy College did not know of them and had no part in them. The contracts with our off-site directors are legally sound and spell out very clearly the responsibilities of the college and the off-site directors. I append a sample of this contract, although we have already provided this to your investigators. Let me State some important aspects of these contracts.

Molloy College has complete control and responsibility for the academic and educational aspects of the program. We approve all adjunct teaching faculty. Course outlines have to be the same as those utilized on campus. The academic vice president has the resumes of all adjunct faculty and personally visited and evaluated the off-sites. The off-site entities, on the other hand, had the contractual responsibility of providing appropriate classrooms, lecture halls and other facilities, utilities, custodial and maintenance, insurance, transportation service and cultural enrichment programs. It is Attachment B of the contract.

Any advertising that the off-site directors distributed had to be approved by Sister Patricia Morris for accuracy and honesty. All financial aid forms and checks were under the supervision of our vice president for business affairs and his administrators in the Student Financial Aid Department.

Molloy College, upon receipt of the Pell Grant and New York State Tuition Assistance Program (TAP) checks for the students, originally retained $550, from the total of the two, per student per semester for administrative costs and partial tuition. This was later raised to $750 per semester. The balance of the Pell Grant and New York State TAP checks were forwarded to the off-site entities to provide the services set forth in the contract. The students enrolled in these programs were expected to pay all tuition and fees from all sources reasonably available to them, including but not limited to personal and family resources and such financial assistance to which they might be entitled by Government formula.

As stated contractually, the off-site entities were to provide through "institutional aid" from their operational budgets—their operational budgets—to cover any balance of the student's tuition. For the year 1991–92, the tuition for all Molloy College students was $3,900 a semester. That is the contract, Attachment C. That is the particular year that that sample contract was drawn up. If any tuition balance were to be paid by the student, it was to be paid to Molloy College and not to the site entities. If there were abuses in the program, we knew nothing about them at the time and, of course, had no part in them. If we had had even a hint of any wrongdoing, we would have taken action immediately. Our actions when any academic or educational impropriety came to our notice testify to this. For example, just one, you should be aware that Sister Patricia Morris had demanded the removal of an off-site director for curriculum mismanagement.

Also, if I can just add this, last fall when we received the preliminary enrollment for the on-campus and these off-sites—and I saw the numbers that were enrolled in the off-site—my vice presidents and my board of trustees can tell you that I got very firm and I said under no conditions can we ever, ever have the number of students on off-sites equal or surpass the number of students here. And we began to deliberately plan to phase this number down.

Chronology of the off-site classes: Molloy College was brought into this investigation because we allowed students legitimately enrolled to pursue an associate of arts degree program while attending classes primarily at off-sites in Brooklyn and Queens. Most of these students were Russian Jewish immigrants, but there were also approximately 1,000 blacks, Latinos, Pakistanis, and other minority groups.

We did not create the idea of the program. Indeed, we did not even know of the need for such a one. In 1987, Sister Patricia Morris was approached by Rabbi Joseph Gelman. He requested that Molloy College enter into an arrangement with his organization to fill a desperate need on the part of the Russian immigrants for an opportunity to obtain an American education.

You may ask, why would Molloy College enter into such an arrangement? Our response is clear. The Federal Government, New York State, all of the accrediting agencies that have accredited us, all were urging American colleges and universities to do more for minorities and immigrants. Molloy College responded with an increased recruitment plan for minorities from Long Island to register for on-campus classes. The request of Rabbi Gelman to assist in educating Russian Jewish immigrants provided Molloy College with another opportunity to accomplish its mission and fulfill its responsibility. This is the truth. At no time did we enter this venture for reasons of financial gain. At no time did we ever recruit students.

The program started in 1987 with 40 students at 2 sites in Queens: Far Rockaway and Forest Hills. Under the New York State Education Regulations, a college could allow such classes at off-sites toward an approved registered degree program without any permission from the State Education Department. Sister Patricia Morris can tell you the exact definition of an off-site, but the most students you can have in one site is 43. So it is approximately a classroom, the size of a classroom.

In 1989 and regularly as the program developed—that is since the beginning, now—we forwarded the curriculum to the New York State Department of Education, together with copies of our contracts with the sites. We also reported the program annually to the Middle States Association in our annual report, and that is our major accrediting entity.

In August 1989, in response to an inquiry for information from Dr. Denis Paul of the New York State Education Department, additional information was forwarded to his office. Thereafter, on December 7, 1989, Dr. Paul wrote to the college and stated that "our letter helped clarify the general characteristics of the relationship."

With the increased flow of immigrants, especially Soviet Jews from the former Soviet Union, to New York City, the program continued to grow and the number of sites increased. I think this next point is important. In order to ensure our control, our educational control over the program, we asked the State Education Department in 1990 for approval to establish four extension centers. Again, Sister Pat can give you the exact definition, but they allow more students than just 43. They allow consolidation, more or less centralization.

In view of the fact that our vice president of academic affairs and members of the faculty and administration were visiting the sites in a supervisory capacity, it seemed prudent that centralization would increase our ability to assure the fulfillment of our educational responsibility.

We were informed by the State Education Department at first that there were "no forms" available for the establishment of extension centers, but that we should write a letter requesting these centers. Accordingly, on November 19, 1990, I wrote to the State Education Department to request the establishment of the extension centers. Several days later, we were informed that certain forms were, in fact, available and should be submitted. Since that time, for 3 years, we have been attempting to satisfy the requirements of the New York State Education Department with regard to our proposal to establish extension centers and to receive a reply. We were advised as recently as March 1993 that the request is being "currently reviewed."

In April 1993, Sister Pat Morris and I went to the State Education Department to try to discuss the matter and to get the whole question moved.

In 1993, the college became aware that there were some questions concerning the "eligibility"—the academic eligibility, now—of the program, the associate of arts degree. Two audits were conducted early in 1993, one by the U.S. Department of Education and the other by the New York State Comptroller's Office. We believe that these audits were a result of the ongoing investigation by this Committee. Both groups of auditors inspected records of students primarily attending classes at off-site locations. The New York State auditors remained in the college for approximately 5 weeks. The U.S. Department of Education, having never criticized our program—and I can understand that—made a perfunctory visit to the campus during which time they photocopied records of students at off-site programs, so much so that Sister Pat's copying machine was overused and had to be repaired.

An issue raised in both audits was the "full-time" status of the students. The college believed that since the regulations of the State Education Department set a minimum of 12 credit hours per semester for a full-time student, and since our associate of arts degree program at the off-sites did, indeed, require 12 credit hours per student, the "full-time" question had been resolved.

Then both State and Federal auditors began to question the New York State Education Department about the academic "eligibility" of the program. Upon requests from the State Education Department, we provided them with all the documentation necessary to show that, indeed, the program was educationally sound and adequately supervised. Differences in the curriculum from that offered on campus were not substantial, and the special provisions made for the off-campus students were similar to provisions made for on-campus students who have had particular learning problems. In the case of the Russian Jewish immigrants, it was a language problem. Thus, English as a Foreign Language was recommended by the vice president for academic affairs in accordance with the New York State Commissioner's Regulations.

Another question raised by the auditors was the number of semesters required to complete the program off-site. The Satisfactory Academic Progress Standards adopted by New York State permit the completion of the associate of arts degree in 5 years. The Federal Government Satisfactory Academic Progress Standards allow 3 years to complete the associate of arts degree. It is a well-known fact to educators that students with special difficulties often require 3 to 5 years to complete the associate of arts degree. Yet the State Education Department determined on July 19, 1993, that the program offered off-site was substantially different from the registered program approved for the college in 1976. Three major reason were cited:

One, lack of proper supervision. Ironically, as I stated previously, our efforts to centralize the students were thwarted by the New York State Education bureaucracy.

Two, our off-site program required 3 years for the associate degree instead of the so-called "normal" 2 to complete.

Three, there were three additional courses recommended by our vice president for academic affairs.

Criticism by Albany about academic supervision and the curriculum ignored the fact that the college had, since 1989, consistently forwarded the curricula and had reported details of the program not only to the New York State Education Department but to the New York State Board of Regents as part of the Master Plan process in New York State, to the Middle States Association, and to the Higher Education Service Corporation, HESC, through the annual Higher Education General Information Systems (HEGIS) Reports. We received no criticism until July 19, 1993.

At our request—at our request—after the July 19 letter was received, members of the Molloy College administration and the chairman of the board met in Albany with Dr. Donald Nolan, Deputy Commissioner, and his staff on July 29, 1993. We subsequently submitted additional documentation to Dr. Nolan in order to satisfy whatever requirements there may be to save the program. On August 2, 1993, 4 days later, Dr. Nolan requested that the program be terminated at the off-campus sites. Molloy College complied with an immediate suspension of the program at all sites.

On September 30, 1993, Dr. Nolan wrote to Molloy College and advised us that the program which we had been offering off campus was not "eligible" retroactively for student financial aid for the reasons stated above, notwithstanding the fact that previously awarded degrees were deemed valid. The effect of that letter is devastating to Molloy College and threatens its very existence. The immediate impact is as follows:

One, the U.S. Department of Education, having received Dr. Nolan's letter, has advised the college that all title IV grants since 1988, approximately $7 million, are now deemed institutional liabilities. Molloy College retained only a small amount of these funds.

Two, the New York State Comptroller's Office had previously advised us that if the program were "not eligible," the college would be liable for upwards of $10 million of New York State TAP awards.

Summary: Molloy College has fulfilled completely its contractual obligations to our students at off-site locations. We have provided them with a sound education and had complete control and responsibility for the academic and educational aspects of the program. We kept complete financial aid records, academic records, and evaluated the faculty through our vice president of academic affairs who personally visited the sites and evaluated the curriculum, faculty, and progress and educational needs of the students. Unfortunately, our attempts for better control and supervision were thwarted by the New York State Education Department.

Although Molloy College has reported and regularly communicated with the New York State Education Department, we never received a hint that there was any problem with the off-site program until this year. Yet we now have evidence that there were internal memoranda in the State Education Department regarding questions of the eligibility of the program as early as 1990. These questions and reservations were never made known to Molloy College. If they had, believe me, the college would have taken immediate action at a time when the number of students in the sites was very few.

Molloy College has also fully cooperated with the State and Federal authorities. All the student academic and financial records associated with the off-site program have also been made available to the U.S. Department of Justice.

Molloy College has always acted professionally, ethically, and in good faith. We have no evidence that the off-site entities may have acted differently. If any New York State or Federal agency had advised us of a legitimate objection to our off-site programs, we would have remedied the problem, if possible. If not, we would have terminated our contracts immediately. We did suspend the entire program this August and most likely will not resume it.

We are confident that the educational results of the program were good ones. Tangible proof of this exists in the great success of our Russian Jewish graduates who, as a direct result of our reputation at the off-sites—they were not in the associate of arts degree program at the off-sites, but as a direct result of our presence there, studied on campus for a bachelor's degree in nursing. Every one of them passed their R.N. licensing examination on their first try. The first group graduated last year, and they are now working in hospitals such as New York Medical Center, Cornell University, and hospitals in the city.

Chairman NUNN. Sister, those were all that studied on campus?

Sister FITZGERALD. On campus. We insisted that they come to campus. We got requests from the Russian Jewish community to please, you know, give these students some way that they can get their degree and licensing in nursing. And we insisted not on the off-sites. It just could not be done. They had to come to campus. So they were bussed in from Brooklyn, mostly Brooklyn, the last 3 years, I think. Their first year they had to take English as a Foreign Language, but we did register that program, after about a year or two, as a new program in Albany because, well, we felt we were accelerating them. So I think this speaks for our academic integrity. I mean, we would have registered the other one, you know, if we thought there was any problem, and here one that was on campus and was accelerated on campus, we did, you know, register that as a new program. But it has been successful. But that is an offshoot of, as they say, the off-sites.

There is a great need on the part of minorities and immigrants to have access to postsecondary education. The Pell Grants do make this possible. It is my hope that some ways will be found that will enable students such as many of ours at the off-sites to receive their education to improve their standard of living, to enable them to obtain suitable employment, and to become good citizens.

Molloy College is a respected institution of higher learning and should be encouraged and praised for the quality of education that is its hallmark rather than be penalized for it. If this Committee can do anything at all to remedy the injustice that has been done to the college, I urge you to do so. For our part, we shall continue to assist your Committee and the Federal Government and New York State in their ongoing investigations. I thank you most sincerely for the opportunity to present our case personally.

Chairman NUNN. Thank you very much, Sister Fitzgerald.

Let me just say at the outset that, again, I appreciate your being here, and we appreciate your cooperation.

Sister FITZGERALD. Thank you.

Chairman NUNN. What we are concerned about, and I am sure you are concerned about, is the education of students. And I am sure you share in that because you have been in that business for a long time, and your college is a well-respected college with a reputable kind of overall educational reputation. I think that the difficulty we have here is because we, at least I feel that your reputation has been used by those who do not have the same motives toward educating students as you do.

Sister FITZGERALD. It may be. It may be even abused.

Chairman NUNN. You are in many ways a victim of this.

How many students do you have, Sister Fitzgerald, in each graduating class now?

Sister FITZGERALD. On campus or off campus?

Chairman NUNN. Well, why don't you tell me both?

Sister FITZGERALD. Last year, last May, I believe there were 320 graduates.

Sister MORRIS. 322, I believe.

Chairman NUNN. 322. Is that on campus?

Sister MORRIS. On campus.

Sister FITZGERALD. Yes.

Chairman NUNN. And how about off campus?

Sister MORRIS. Off campus there were about 25, I believe. I am not quite sure of the number of off campus. I do not have the statistics with me, but I can get those for the record.

Chairman NUNN. There were about how many off campus?

Sister FITZGERALD. In the twenties.

Mr. SCHURE. Is that degree, Senator?

Chairman NUNN. Yes.

Sister MORRIS. In the twenties.

Chairman NUNN. In the twenties. Now, is that a 4-year degree? Are both of those 4-year degrees?

Sister MORRIS. No. The off-campus is a 2-year degree.

Chairman NUNN. And the on-campus, the 339, is a 4-year degree?

Sister MORRIS. Yes. Well, there were a few associate degrees in that number. They were mostly baccalaureate degrees and about approximately 14 master's degrees in that number of 322 graduates.

Chairman NUNN. How many different off-site programs does Molloy have? Are there several different programs? We are talking about here a program that was specifically for immigrants, a 2-year program, but do you have other off-campus programs?

Sister MORRIS. We offer courses off campus in our baccalaureate program. For example, in the hospitals in the area, students who are pursuing their baccalaureate degree in nursing may take some of their courses at the facility, at the hospital facility, prior to their entering into the clinical aspects of the program.

Chairman NUNN. But this program, this immigrant program, if we could call it that, was primarily an off-campus program?

Sister MORRIS. Yes, with some courses on the campus. No one received a degree from the college without having attended the campus for at least two courses. At least.

Chairman NUNN. For two courses. So your off-campus program, the immigrant program, required an on-campus attendance for at least two courses.

Sister MORRIS. Yes.

Chairman NUNN. To get the 2-year certificate or degree.

Sister MORRIS. And the on-campus courses were taught by faculty on campus, Molloy College regular full-time or part-time faculty.

Chairman NUNN. Now, of your on-campus program, how many of those students, approximately—I am not looking for an exact number—what percentage of those students would have been recipients of Pell Grants? Do you know?

Sister MORRIS. Of our on-campus program?

Chairman NUNN. On campus, right.

Sister MORRIS. I would say upwards of 80-something percent. The financial aid students on our campus are from middle-income families, and their are Pell and TAP eligibility—I would say at least 85 percent of our students are eligible for some amount of either TAP or Pell or both.

Chairman NUNN. Does that include student loans, or is that just either TAP or Pell?

Sister MORRIS. I would believe it probably includes student loans, but I could not say that with absolutely accuracy.

Chairman NUNN. I will ask either of you these questions so you can bounce them back and forth as you choose here. Did——

Sister FITZGERALD. If I may, Senator?

Chairman NUNN. Yes.

Sister FITZGERALD. I remember several years ago—and it still is the case—many of our students from the Long Island area do not get much Pell Grants because the cost of living on Long Island and the wages and so forth are high, and most of them, their parents, both parents are working. So I know there have been changes in that over the past year or two, I think, which has helped those people on Long Island. But really the number of Long Island students, at least the ones that come to Molloy, as far as the Pell Grants—and I could get you all those statistics—is not very high.

Chairman NUNN. More of them would be on student loans, then?

Sister FITZGERALD. Oh, and they get TAP and they work. At least over 80 percent of our students get some kind of institutional aid from us.

Chairman NUNN. Now, do you know offhand how many sites you had in this off-campus program, how many separate sites there were?

Sister MORRIS. I would say 40, 40 locations, but the control was exercised by 9 entities.

Chairman NUNN. Nine.

Sister MORRIS. Nine entities.

Chairman NUNN. 40 sites managed by 9 entities.

Sister MORRIS. Yes.

Chairman NUNN. Did Molloy provide on-site representatives or managers at any of these 40 sites?

Sister MORRIS. On site full-time, no. We had a relationship with them. We had an ongoing agreement through the contractual obligations spelling out their duties, and we had officers on the college identified as liaison to these people with whom there was sometimes personal contact by site visits, our going to them, or their coming to us, and at other times through telephone conversations and extensive correspondence.

Chairman NUNN. But the on-site management was almost exclusively people who did not work directly for Molloy but were part of the contract——

Sister MORRIS. Were part of the contractual obligation, yes.

Chairman NUNN. Did Molloy provide any instructors at the sites?

Sister MORRIS. At the sites we approved the instructors. At times we have supplied several instructors. When a particular discipline could not identify someone, we had instructors. And in one instance, the instructor was going, but the class size was too small, so we canceled the class. So that instructor, that exchange never took place.

Chairman NUNN. But most of the instructors were under the contractual arrangement and were not part of Molloy's normal faculty?

Sister MORRIS. No. They were given the title adjunct lecturers as a citation of what they were doing, yes.

Chairman NUNN. Did Molloy approve the instructions that were hired by the contractors?

Sister MORRIS. Yes. We have records of all of those instructors. Now, at times there were instructors whose qualifications we questioned, and in that instance, if the instructor had already begun the class, we allowed it to continue until we could find a replacement. But the instructor was never used again.

Chairman NUNN. Were those instructors considered, once they were accepted by you and were working under the contract, a part of your faculty?

Sister MORRIS. They were considered as adjunct part-time faculty, adjunct lecturers. They were not published in the catalog, but in the beginning we had meetings on the campus and we invited these people to come to the meetings, and the departments whose disciplines were in the program would meet with those faculty members. Last year we did not do it because of the size, but that was the reason why we were trying to get the extension centers so we could have this centralized so that we could conduct more of those types of meetings.

Chairman NUNN. Did they get paid by Molloy, or were they paid by the contractor?

Sister MORRIS. They were paid by the contractor.

Chairman NUNN. What were the prerequisites that you required before you would allow them to work as teachers under the contract program?

Sister MORRIS. A master's degree in a discipline, with some exceptions to this regulation, because, according to New York State regulations, in an associate degree program a holder of a baccalaureate degree is eligible to teach in such a program. The other exception would be in the case of the EFL. We do not have that many people in the State with degrees, master's degrees, in English as a Foreign Language. Therefore, people with relevant experience or an analogous degree, such as communication or English, were assigned the task of teaching EFL classes.

Chairman NUNN. You stated, I believe, Sister Fitzgerald—and I believe, Sister Morris, you stated to staff in oral conversations—that if you had known of the abuses described by the staff and by the General Accounting Office that you would have moved to stop those abuses. Is that right, Sister Fitzgerald?

Sister FITZGERALD. Most definitely.

Sister MORRIS. That is correct, yes. And when we did know of abuses, we did. As Sister cite, in one case of curriculum mismanagement and general lack of oversight and lack of cooperation, I did have one of the directors replaced. This was in February of 1993.

Chairman NUNN. February of 1993?

Sister MORRIS. Yes.

Chairman NUNN. Let me ask you just two or three questions about what you were aware of and what you were not aware of. Were you aware that students enrolling in the associate's degree program for recent immigrants were receiving stipends or payments?

Sister MORRIS. Not in the beginning, no. The financial arrangements were handled through the office of the vice president for business affairs. Therefore, those kinds of arrangements were not under my jurisdiction. My responsibility was the curriculum, the faculty, the students, their academic progress.

Chairman NUNN. Were you aware that a number of students and instructors felt that the primary reason that students were enrolling in class was to receive the stipends themselves?

Sister MORRIS. No, I was not aware of that, and I never saw any evidence of it on any of my visits to these sites.

Chairman NUNN. If that had come to your attention, what would you have done about it? Would that have disturbed you?

Sister MORRIS. Oh, it would have disturbed me, and I certainly would have looked into it, yes.

Chairman NUNN. Were you aware that there were students enrolled in Molloy's program, off-campus program, who were not aware that they were even enrolled at your school?

Sister MORRIS. No. And, again, when I visited the campuses, the sites, rather, I was introduced as the vice president of Molloy College to the students who were there. I spoke to them as students of Molloy College. And as far as I could determine, they were all aware that they attended school.

Mr. SCHURE. Mr. Chairman, may I interject a point at this time? Because that is referred to in the staff report.

In speaking to your chief investigator, he advised me that in his interviews with the students, they told him they had all received a good education. We never read about any of this until we saw the report last evening.

Chairman NUNN. Well, that was not what the final conclusions were. I am not sure when that conversation took place.

Let me ask you to look at the poster. Have you got that poster? Have you ever seen that poster before? [1]

Sister MORRIS. No, Senator, I have not. We have strict regulations with the sites. They have in writing what the parameters of advertising are, and those parameters were that all advertising prior to publication must be submitted to the college for approval in regard to accuracy, placement, honesty. And this ad, whichever paper it appeared in or wherever or whenever, was never brought to our attention. If it were, it would not have been published.

Chairman NUNN. If you had seen that poster, would you have allowed that to go out as an advertisement of what you were teaching?

Sister MORRIS. Absolutely not.

Chairman NUNN. Tell us why not.

Sister MORRIS. Because it says "Adult English Classes." It does not say awarding of an associate of arts degree. Our program was an associate of arts degree program. It was not adult English classes.

Chairman NUNN. So if that poster was, in effect, used to entice students to join or participate in the Molloy off-campus program, it was done against your will and without your knowledge?

Sister MORRIS. Absolutely. It was done without my knowledge. I certainly would have taken issue with the stipends. I would have taken issue with the adult English classes.

Sister FITZGERALD. And no Molloy College.

Sister MORRIS. The identification of the institution is not even there. That ad would never have been placed.

Chairman NUNN. Do you consider that a breach of your agreement?

Sister MORRIS. Yes, I do.

Chairman NUNN. So the people you contracted with, in effect, broke your agreement?

Sister MORRIS. Broke their agreement, yes, because they had many communications in writing to the institutions saying what the advertising parameters, as I said, were. And these people did not observe those parameters.

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[1] See Appendix K to Staff statement, page 195.

Chairman NUNN. Was there any ambiguity in your agreement with them?

Sister MORRIS. Ambiguity, no.

Chairman NUNN. Could they have misunderstood what you were requiring in terms of pre-clearing advertising?

Sister MORRIS. I really doubt that. I think my directives were quite specific.

Chairman NUNN. Were you aware that one of the organizations, I believe this was 10 sites, 1 of the 9 organizations, 10 sites, were teaching their students only in the mentoring mode where students were required to meet with mentors only five times a semester?

Sister MORRIS. Yes, that I was aware of, but those mentoring modes were done in a classroom situation. I visited those sites and observed the fact that interaction took place in the classroom. There was no interaction through telephone, mail, et cetera. Those students, as well as all the others, were obligated to attend the campus for courses as well. No one would receive a degree from that program without attending Molloy College campus, and in that instance, they would have had to take 9 credits on campus, at least 9 credits, which would be 3 courses.

Chairman NUNN. They would have had to take 9 credits before they got——

Sister MORRIS. Before they got their degree.

Chairman NUNN. Before they got their degree.

Sister MORRIS. Yes.

Chairman NUNN. Do you allow that kind of mentoring program on campus?

Sister MORRIS. Yes, the difference being on campus most of the students take their courses in the classroom mode and maybe a few in a mentoring mode. When I say "mentoring," independent study or tutorial, which is a one-on-one. We allow that for students who have difficulty for one reason or another in attending class or completing a degree. For example, if a class would be canceled and a student needed it to graduate, we would certainly permit that.

Off campus, the balance was different. They were mostly mentoring and some classroom instruction. But we do allow it both on and off campus. We have a special form that students fill out in order to be allowed to do this.

Chairman NUNN. Is it your normal practice to charge students only the amount of the Pell Grant? What is your normal tuition?

Sister FITZGERALD. You know I am not the director of financial aid, but this is what I understand: With any student who enrolls—now, I am talking about on campus and, according to the contract for off campus, but it is the same—the students have to fill out that FAF form. They have to have established by that—and I am probably not saying it as accurately as a financial aid director would. They have to have established by that what they would be eligible for in Federal grants, TAP grants, what their family income or their resources would be expected to meet, and then if they really have problems, we will give them institutional aid from our on-campus budget.

Chairman NUNN. When you give them that institutional aid, does it show in your books as only the amount of the Pell Grant having been received, or is there an actual transfer of the institutional aid to them and then a bookkeeping entry that shows they paid more than the Pell Grant for their education?

Sister MORRIS. There is an entry indicating institutional aid. All of the aid, any type of aid that is given to the student, is entered in the books, yes.

Chairman NUNN. But the Pell Grant normal maximum I believe is $2,400 per year, $1,200 a semester. Your normal tuition is higher than that, correct?

Sister FITZGERALD. Right.

Chairman NUNN. What I am puzzled about is how students were basically able to attend what you believe to be a 2-year full program but the only cost of it was the Pell Grant?

Sister MORRIS. No. The Pell award, TAP award, and in some instances some payment by the students.

Chairman NUNN. In some instances, off-campus students actually made payments?

Sister FITZGERALD. Not very many.

Sister MORRIS. Not very many, but there were some instances of students making payments. That was mostly probably totally in the mentoring program there were students who made payments. I could not give you a number, but there were students who did that.

Chairman NUNN. Sister Fitzgerald, based on what you know now—I am not asking you to go back on it, but do you feel that the organizations that you contracted with kept Molloy fully informed of their activities during the existence of that program?

Sister FITZGERALD. Now, Sister Patricia Morris is the one that has met with these people and knows them very well. I met them perhaps in passing at one of their graduation ceremonies or whatever. But from what I am told by Sister Patricia Morris, there are some that if they are—if the alleged allegations are so, we would be quite surprised. From what the report of the Committee staff said—and we received it only last night—I just was absolutely dismayed.

Chairman NUNN. Do you feel like you have been abused if these allegations——

Sister FITZGERALD. If they are true, I believe that, yes, Molloy was used, and I will try in all charity to accept it. But we did not have any evidence, and the only evidence we see is what we saw in the report that we got last night. I wish that we had known, and I wish that in 1990 when the State Ed. Department had had internal memoranda about, you know, different questions about the problem, that they had called, they had written, they had told us. And back then—that was 1 year into the program—we would have done something.

Sister MORRIS. At that time the registration was minimal, and it would have been far easier for us to correct any abuses or take any type of corrective action that was necessary, up to and including stopping the program.

Chairman NUNN. Sister Morris, would you have stopped the program if you had known a year or two ago what you know now?

Sister MORRIS. If these allegations are true, yes.

Chairman NUNN. If the allegations are true, do you believe that you have been kept informed by these organizations that you have contracted with?

Sister MORRIS. If these allegations are true, they have informed me of some. They have not lied, but they have withheld information.

Mr. SCHURE. Mr. Chairman, may I just add one comment? We recognize the important work by this Committee, and I think what the Committee has done is to galvanize the bureaucracies in the Department of Education and the New York State Education Department to do something. And, in effect, we are now a victim of their retroactive determination that the program was not eligible. This is the problem we are facing because they are saying now for the last 3 to 4 years the program was not eligible even though we sent them the curriculum and the contracts and always communicated with them and asked for guidance. And now we are faced with a liability of such immense proportion that it may close the institution. And they all say, well, we do not want that to happen, but, Senator, that is going to be the effect. We just cannot—"we" meaning the college—afford to pay $17 million.

Chairman NUNN. I understand that, and I do believe to a certain extent you have been victims here. But there are also victims out there that are students.

Sister FITZGERALD. That is right.

Sister MORRIS. Absolutely.

Chairman NUNN. And there are victims that are taxpayers.

Sister FITZGERALD. Including—and I argued as best I could with Dr. Nolan on July 29 when we got to meet him, the chairman of the board and Sister Pat and a few others from the college. I said at no time in any educational grade do you cease a program without taking care of the students who are in it. You try to phase it out or you try to get them placed. You just do not abandon them.

Sister MORRIS. Abandon people, which is what happened.

Sister FITZGERALD. But, still, he said suspend them, so we suspended it. But we do feel that those students, at least some of them—most of them—were hurt by this.

As a matter of fact, there were two off-sites or two groups that wanted to come on campus, bus them in and everything, in September. And because we had given out all the institutional aid we could possibly, it just could not be done. If all of this had happened let's say last February or March, we could have arranged for it, but not as of August. But we did have some off-site directors—you know their names—who wanted to bring their groups on campus this September. They do not want to just abandon them.

Also, Sister Pat has had some calls from other colleges—I should make this known—and some high schools, one of them was one of our own Dominican high schools, where some of these off-site directors are now asking these colleges if they could have an arrangement with them. Sister Pat can tell you what she told anybody who called her. And this one Sister, who is the principal of a Dominican high school in Queens, called us and said so-and-so wants to rent some space, and we told her to have nothing to do with it. And she thanked us profusely.

Sister **MORRIS**. I was quite frank with anyone who inquired, and I told them exactly what was happening and exactly what had happened, to the best of my knowledge.

Chairman **NUNN**. A couple of cases here. Mrs. Ida Goldberg is a resident alien who resides in Brooklyn with her husband, Isaak Goldberg. According to the U.S. Department of Education's data bases, Touro College, Sara Schenirer Teachers Seminar, Molloy College, Bramson ORT, and the Academy for Jewish Education all obtained Pell Grants for both Ida and Isaak's attendance at their schools. Both of these individuals, Ida and Isaak, stated that they had gone to Sara Schenirer for 2 semesters and at Bramson ORT for 4 months, but they had dropped out because they did not like Bramson ORT. Mrs. Goldberg stated she had taken an entrance exam at Touro College, but did not enroll or attend classes there. Both of them said they had never heard of either Molloy College or the Academy for Jewish Education.

According to the files at Molloy College, Mrs. Goldberg attended classes there in the fall of 1989, the spring and fall of 1990, and the spring of 1991. This is your files relating to the off-campus program. She got grades, and you furnished us this: Voice and Diction, B+; Grammar Review, A; Oral Production, A; Old Testament, B; Experience in Communication, B+; Grammar Review, A; Oral Production II, A; Composition I, B; Reading Study Skills, B+; Achieving Musical Insight, B; American national Government, B; Effective Business Writing, A; Short Story, B+; American Civilization, B; The Family, B. She said she did not even know she was going to the college.

Mr. **SCHURE**. It sounds like dean's list, but she has maybe failed memory. We have no particular record of that.

Chairman **NUNN**. Mr. Schure, if we are going to have you testify, we have to swear you in.

Mr. **SCHURE**. Oh, sorry.

Chairman **NUNN**. You can advise your clients, but——

Mr. **SCHURE**. I apologize, Mr. Chairman.

Sister **MORRIS**. I cannot say that I met Mrs. Goldman personally. I know I have visited the sites where she says she attended, and we have our records, and on the bottom of our application for admission it says, "I hereby certify that what I have written is true." If what she wrote was not true, there is nothing I can—you know, there is no way I can respond to that part.

I do know that I did visit the site, the Academy for Jewish Education. I was there. I was there many times. I could not tell you offhand the names of each of the students with whom I spoke. I did speak with a great many of them. I evaluated—on the days that I was there, I would evaluate three or four classes and meet sometimes the same students, sometimes different ones, but I honestly at this point could not remember their names.

Chairman **NUNN**. OK. We have got a vote up there, and I am going to have to close the hearing. Is there anything else that you would like to say, Sister Fitzgerald?

Sister **FITZGERALD**. No. I just thank you and your staffers for being so kind and courteous to us, and understanding, I hope. And anything we can do for you, we will certainly continue to do.

Chairman NUNN. Well, you have been very cooperative, and I know that you have run a good school for a long time. I regret that you have had this episode in which I think you have been partially victims, but the bottom line is that schools that run off-campus programs have to be responsible for those off-campus programs. And that is the bottom line in terms of the expectations that we have to expect.

Sister MORRIS. And we believe that we were responsible in this case. We did supervise, we did inspect, we did converse with these people. If they told us something false, there is very little that we can do about that.

Chairman NUNN. When you are victims of fraud, then that is a tough situation. I assume that if you go into anything else like this, though, you will anticipate that you might be dealing with people who have less than pure motives.

Sister MORRIS. Yes, we would be far more leery or suspicious. We accepted them as professionals. We expected them to act as professionals, as we did. We had a contract, and we expected them to hold up their end.

Chairman NUNN. I do not enjoy being in the position of telling two people like you that you need to be more suspicious of humanity.

[Laughter.]

Chairman NUNN. But based on my experience, when it involves Federal dollars I think we all have to.

Sister FITZGERALD. Well, my board of trustees has told us. So, you know, I do not think it will ever happen again.

Chairman NUNN. Thank you all for being here. We appreciate it.

Sister MORRIS. You are welcome.

[Whereupon, at 12:16 p.m., the Subcommittee was adjourned.]

APPENDIX

STAFF STATEMENT
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARINGS ON ABUSES IN FEDERAL STUDENT GRANT PROGRAMS

October 27, 1993

* * *

Mr. Chairman, at your direction, the Subcommittee's Staff and the U.S. General Accounting Office's Office of Special Investigations have been conducting an investigation of allegations of fraud, abuse, and mismanagement in the Federal Pell Grant Program.

To date, our investigation, which is ongoing, has uncovered what we believe to be systemic weaknesses in the largest direct Federal student aid program. These weaknesses have enabled some schools to reap millions of dollars of profits while abusing and defrauding the Pell Grant program.

Last year, the Federal Government gave out $6.1 billion in Pell Grants to over 4 million undergraduate students. While we hope that most of these funds were applied properly, we know that millions of dollars were not.

Some examples of our findings include:

—Some non-profit, tax-exempt schools have reaped millions of dollars in profit through their participation in this Federal grant program. By artificially setting tuition high enough and enrolling primarily financially underprivileged students, these schools ensure that the vast majority of their students will receive the maximum Pell Grant award. The schools are then able to pocket millions of dollars in profits, because their program costs are low.

—As we found in 1990, members of the for-profit trade school sector continue to abuse the student aid programs by offering substandard training in courses which offer little hope for meaningful employment.

—We found schools which thrive only because of this Federal grant program. We found that a free-market economy has nothing to do with the existence of some of these schools, because their gross revenue consists almost solely of Pell Grant income, so much so that they have become, in essence, Government-sponsored enterprises.

—We found many examples of highly questionable "education" being offered at participating schools. Glaring examples include schools which offer nothing other than "independent study" courses, wherein students are charged $2,500 per year; receive no books, but only a syllabus; and take tests which are supposedly mailed to their homes. Mentors are allegedly available to discuss the topics over the phone with the thousands of students enrolled. The Pell Grant covers $2,400 of the tuition, and students are given a $100 scholarship to cover the remainder of the tuition. The courses offered are entirely religious in nature. Students enroll because study is viewed as part of their religious obligations.

—We found multiple examples of ineligible Pell Grant awardees, who had already received a degree in higher education.

—Over 75 percent of the student body at one school consisted of unemployed persons born before 1934, some as early as 1904. Thousands of these elderly students, all immigrants, were paid several hundred dollars per semester to attend "classes" in Jewish culture, Hebrew, and English. Many told us that they attended the classes only to receive the money, which they said they needed to survive.

—We interviewed still other students, who, according to school records, had attended classes and received Pell Grants for several semesters; yet the students denied ever attending the classes. A review of the files discloses wild variations in the students' alleged signatures.

—During our investigation of several ultra-orthodox Jewish schools which received millions of dollars in Pell grant funds, we were met with hostility and charges of anti-Semitism and of violating their religious freedom. We received little or no cooperation from the community, the schools, or the students. Community religious leaders prohibited members of the community from talking with the Staff, effectively stifling our investigation. When we attempted to depose key officers, directors, and employees of the schools, all of these key personnel asserted their Fifth Amendment protection against self-incrimination.

—In reviewing the Pell Grant awards at 37 Jewish schools, the GAO discovered that students migrate from school to school before completion of the programs offered. The GAO found over 1,300 students who had received Pell Grants to attend classes at three or more different schools.

—The Subcommittee subpoenaed the records of five schools. One school, Toldos Yacov Yosef Seminary of Brooklyn, claimed it could not locate any of its records. The school has since closed. Another school, the Traditional Jewish Studies Center, was the victim of a mysterious fire, after having been served with a Subcommittee subpoena. The school claimed that its records were destroyed in the fire, although on inspection of the fire scene, the New York City Fire Marshal found no evidence of any large-scale destruction of documents. A third school, Bais Fruma, has failed to produce numerous categories of documents subpoenaed by the Subcommittee, despite almost daily conversations between the Staff and the school's attorneys over the last five to 6 weeks. Similarly, Bais Fruma has also failed to provide a complete response to a series of specific questions and document requests put to it in a letter addressed to its attorney, dated August 2, 1992. Document production from the other schools has been painstakingly slow and incomplete.

—During our investigation, we attempted to determine how these longstanding problems were able to exist, and why they had gone unchecked. We determined:

—The authorizing legislation, The Higher Education Act, is confusing and too complex, even for the Department of Education, to administer.

—The Department of Education has been slow in developing and enforcing implementing regulations. Historically, the law has been amended and even reauthorized, a process which takes place every 6 years, before the final implementing regulations covering the previous reauthorization were issued by the Department.

—The Department of Education, responsible for gate-keeping and oversight of participating institutions, has not been, and is not currently, staffed or trained at a level to assure adequate program protection. The Department of Education, despite its new focus on quality, is clearly overwhelmed by its mission. For example, even if the Government wanted to conduct on-site inspections of each school prior to granting approval for program participation, it could not do so logistically. It is not just a matter of incompetence; it is a matter of volume. There are over 7,000 schools participating in the Federal student aid programs.

INTRODUCTION

Mr. Chairman and Members of the Subcommittee, it has been 3 years since the Staff reported to the Subcommittee on the results of its investigation into problems in the Federal Guaranteed Student Loan Program. That investigation revealed widespread fraud and abuse on the part of many key participants in the student loan program, including proprietary schools, lenders, loan servicers, secondary market organizations, and guaranty agencies. In addition, the investigation revealed serious deficiencies in the role played by the Department of Education in administering and overseeing the loan program, and in the roles played by State licensing authorities and independent accrediting agencies in approving schools for participation in the program.

As a result of those hearings, the Subcommittee in 1991 issued a report entitled "Abuses in Federal Student Aid Programs" (Report 102-58, 102nd Congress, 1st Session), which was highly critical of almost every aspect of the operation and administration of the student loan program. The thrust of the Subcommittee's findings at that time was expressed in the following paragraph taken from that report:

> The Subcommittee investigation uncovered overwhelming evidence that the Guaranteed Student Loan Program, particularly as it relates to propri-

> etary schools, is riddled with fraud, waste, and abuse, and is plagued by substantial mismanagement and incompetence. Despite the acknowledged contributions of the well-intended, competent, and honest individuals and institutions comprising the large majority of GSLP participants, unscrupulous, inept, and dishonest elements among them have flourished throughout the 1980's. The latter have done so by exploiting both the ready availability of billions of dollars of guaranteed student loans and the weak and inattentive system responsible for them, leaving hundreds of thousands of students with little or no training, no jobs, and significant debts that they cannot possibly repay. While those responsible have reaped huge profits, the American taxpayer has been left to pick up the tab for the billions of dollars in attendant losses.

The Subcommittee's report contained over 25 separate recommendations for reform of the student loan program. Many of those recommendations were ultimately incorporated into amendments to The Higher Education Act which were passed by the Congress and signed into law by the President in 1992. Today, the Department of Education is currently developing the implementing regulations to enhance the Government's ability to properly manage and oversee these student aid programs.

Today, the Staff is back once again to report that our continued monitoring of Federal student aid programs has uncovered yet another program which appears vulnerable to serious abuse and fraud. Our investigation to date of the Federal Pell Grant Program reveals a program which appears to evidence many of the same systemic weaknesses which plagued the student loan program. Indeed, it appears from our efforts so far, that the Subcommittee's report language quoted above could, with only slight modifications, apply equally as well to the Pell Grant Program.

At the same time, the Pell Grant Program, because of its very nature as a grant program, does not contain any of the external alarm bells which exist in the loan program and which, at least for those who care to listen to them, might provide a warning signal of possible problems.

The Staff's investigation is ongoing, and much work remains to be done. Because of the serious nature of our findings, however, and their striking similarity to the Subcommittee's findings with respect to the student loan program, we felt it important to report our concerns to the Subcommittee at this stage. The Staff will continue its investigation and will report further to the Subcommittee.

The results of our work to date, though, leads the Staff to believe that the Pell Grant Program is beset by major systemic weaknesses, which undercut the Government's ability to deter, detect, and pursue fraud and abuse by program participants. The checks and balances which were designed in theory to protect the program (and ultimately the taxpayer) appear in practice to be ignored or ineffective. In particular, the Staff is concerned about the following areas:

—The program's gate-keeping functions, designed to prevent ineligible institutions from gaining access to the program, are not working. In some instances, schools have been allowed to participate in the program despite the fact that they were not licensed in the State in which they operated. In other instances, schools have been allowed to sidestep the normal accreditation process.

—The Department of Education's program review process, designed to ensure statutory and regulatory compliance by institutions once they have gained access to the program, is ineffective at detecting abuse because of inadequate manpower, resources, and training. Despite the specific recommendation of this Subcommittee, program review personnel still receive no formal training, either in their areas of substantive responsibility or in fraud detection.

—Procedures to audit the financial aid records of institutions which have left the program, designed to identify possible abuse or fraud and to lay the foundation for actions to recoup monies owed to the Government, are largely ineffective and practically non-existent.

These weaknesses create an opportunity for unscrupulous individuals and institutions to exploit the Pell Grant Program, thereby causing the Federal Government to expend tens of millions of dollars in unwarranted or improper payments. In fact, our preliminary investigation so far has found indications that such exploitation is not only taking place, but may be longstanding and widespread, as the Government wires hundreds of millions of dollars each month to the accounts of participating schools.

What is of particular concern to the Staff with respect to this program is that, apart from strong and continuous oversight, which currently does not exist, there are no indicators to alert one to the possibility of ongoing abuse by program participants. As the Subcommittee saw in its examination of the student loan program, high loan default rates can often be an early warning sign of a problem school. No such indicator exists in the Pell Grant Program, because students are not required to repay their grants.

The lack of a repayment requirement also appears to leave Pell Grant recipients with much less concern over the quality of the education they receive. Again, the Subcommittee found that complaints about substandard instruction by student loan recipients often served as an indicator of potential institutional abuse. Because they have no personal financial stake in the education provided to them by a particular institution, Pell Grant recipients are often less likely to complain about their instruction; rather, they merely drop out or move on to another school.

Our investigation has disclosed a disincentive for students to complain about substandard educational programs—the schools we investigated PAID the students to attend their classes—effectively using a portion of the Pell Grants as a kickback to the students. It is cash that the students would not otherwise have had, were they not enrolled in the school. In this case the only ones victimized appear to be the taxpayers, whose tax dollars continue to fund suspect institutions.

In the absence of any external indicators, the program weaknesses which the Staff has identified take on even greater significance for this program which gave away over $6 billion last year.

BACKGROUND

The Pell Grant Program is one of several federally funded student financial assistance programs administered by the Department of Education. First incorporated into The Higher Education Act in 1972 as the Basic Educational Opportunity Grant Program, the program was renamed in 1980 in honor of its original sponsor, Senator Claiborne Pell.

The purpose behind the program was to help equalize educational opportunity by providing grants to help eligible undergraduate students from low-income families finance their postsecondary education. The program was intended to bring both greater uniformity and greater equity to the delivery of student financial aid through the use of a federally established need analysis.

Because it is a grant program, Pell Grant awards are made without any requirement of repayment on the part of the recipient; nor is there any requirement that the recipient perform any service for the grant other than to make satisfactory academic progress while he or she is in school. Indeed, Pell Grants are considered the foundation for all student financial assistance for grant recipients—other non-Federal and Federal grant and loan programs are considered supplemental to Pell Grants and are reduced accordingly on the basis of the Pell Grant award.

In the 20 years since the inception of the Pell Grant Program, more than 50 million grants have been awarded, totalling over $59 billion (see Appendix A). These figures reflect a program which has undergone dramatic growth. In the 1973–74 academic year, the first year of awards under the program, 176,000 students received approximately $48 million. Ten years later, the number of students receiving grants had reached almost 2.8 million, while the total amount awarded exceeded $2.7 billion. In the 1992–93 academic year, over $6.1 billion was awarded to approximately 4.1 million students.

Expenditures for the Pell Grant Program have increased one hundred-fold in the program's 20 years. Today, the Pell Grant Program receives more Federal funds than any other student financial assistance program authorized under Title IV of The Higher Education Act.

For the most part, the growth in Pell Grant participation and awards can be attributed to program changes made throughout the years by Congress. For example, in the program's initial award year, grants were provided only to freshman students; however, in 1976, Congress amended the program to provide grants to all undergraduate students. In 1973, the maximum Pell Grant award was $452; over the years, Congress has steadily increased the funding for the program so that today the maximum funded Pell Grant award stands at $2,400. The Staff notes, however, that if the program was fully funded, the maximum Pell Grant authorized by statute is $3,700 this year, and will be $4,500 by the 1997–1998 school year. The fact that the program is not fully funded means, of course, that every illegitimate or fraudulent Pell Grant awarded reduces the amount of aid to the truly deserving students attending legitimate programs.

A student who receives a Pell Grant award may use it to attend any one of over 6,282 postsecondary institutions determined by the Secretary of Education to be eligible for participation in the Pell Grant Program. These institutions include, among others, non-profit two and four-year colleges and universities, postsecondary vocational/technical schools, and proprietary schools (see Appendix B).

In order to be approved for participation in the Pell Grant Program, an institution, among other things, must meet the following three criteria which are set forth in The Higher Education Act:

(1) It must be legally authorized to offer a program of postsecondary education in the State in which it is located. This process typically requires that the institution disclose certain information, the public availability of which presumably would be used by prospective students to make informed decisions about enrollment.

(2) It must be accredited by a nationally recognized accrediting agency which has been approved by the Secretary of Education. The Department relies on officially recognized accrediting bodies to assure that accredited institutions provide a "quality education" for enrolled students.

(3) It must be certified and determined to be eligible by the Department of Education. Certification requires a finding by the Department that the school has the financial and administrative capability to participate in the program. The eligibility determination requires that the school meets certain statutory criteria, which include that it be licensed and accredited, and that it meets the definition of an institution of higher education as defined in The Higher Education Act of 1965.

The Act defines an institution of higher education in the following terms:

(a) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (1), (2), (4), and (5). Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

These criteria are identical to those which are required for institutional participation in the Federal student loan program. Indeed, an institution which wishes to participate in any Federal student financial assistance program must meet these standards. The standards are designed to serve a gate-keeping function—that is, they are meant to allow only qualified schools to gain access to the program, while keeping out those schools deemed unqualified.

Unfortunately, as the Subcommittee found in its investigation of the Student Loan Program, this gate-keeping function has too often failed to meet its intended purpose of protecting the integrity of the Federal Government's financial aid programs. With respect to the Pell Grant Program, the same is true once again. As a result, it appears that numerous ineligible schools have gained access to the program and have used that access to abuse, and in some cases possibly to defraud, the system.

SCOPE OF THE INVESTIGATION

As the Subcommittee will recall, in our examination of the student loan program we focused our investigative efforts on the activities of certain proprietary trade schools which participated in the program. This was done for two reasons: (1) information led the Staff to believe that abuses within the proprietary trade school sector were particularly egregious; and (2) the use of specific case studies from this sector would help identify programmatic weaknesses by demonstrating exactly how individual schools were able to take advantage of the system. While proprietary trade schools certainly were not the only abusers of the student loan program, the problems we uncovered in this subset of schools were highly illustrative of the problems besetting the loan program on the whole.

Similarly, our investigation of the Pell Grant Program to date has focused on a subset of Pell Grant participants—namely, certain "Judaic Studies" and "Immigrant Culture" programs being operated in the greater New York area. As distinguished from the trade schools previously examined by the Subcommittee, these schools are all not-for-profit institutions.

The Staff stresses that these schools should not be confused with rabbinical seminaries, which provide training leading to ordination in the Rabbinate. The focus of our inquiry is on relatively small institutions, operating as federally tax-exempt religious or charitable organizations, which offer nothing more than certificate programs for non-vocational studies.

The courses offered in the Judaic Studies programs generally consist of Hebrew language training and study of various religious texts, including Bible, Prophets, Ethics, and Codes. These classes are taught through a variety of methods, including "independent study"; tuition for these programs often runs as high as $1,200 per semester.

The Immigrant Culture Programs (which primarily enroll newly arrived Russian Jews) consist of English language, Hebrew language, and Judaic Studies courses. Thousands of students have attended these certificate programs, many of whom have qualified for the annual maximum $2,400 Pell Grant award.

Again, our focus on these specific types of schools rests on information which leads the Staff to believe that: (1) there may be particularly egregious abuses going on in some of these schools; and (2) an examination of the activities of these schools may reveal broader systemic weaknesses within the Pell Grant Program as a whole. The Staff wishes to stress that our investigation of these schools is not meant to imply that they are the only abusers of the Pell Grant Program. We are aware that other types of institutions, including proprietary trade schools and non-profit four-year universities, have engaged in what might be considered inappropriate, and in some cases improper, activities involving Pell grant funds.

Indeed, over the past few years, the Department of Education's Office of Inspector General has cited a number of trade schools for Pell Grant abuses involving tens of millions of dollars. Among the abuses cited by the Inspector General were schools which received Pell Grants for ineligible programs, schools which inflated attendance costs and program lengths, and schools which disbursed grants to ineligible students.

In addition, the Staff has learned of certain questionable activities on the part of a non-profit, four-year college which appears to be subsidizing its operations in part by sponsoring more than 40 off-campus sites offering the college's program of study leading to an Associates Degree in liberal arts. We investigated allegations that the off-campus programs were being used to abuse both State and Federal student grant programs. The sites, by gaining access to financial aid through the college's eligibility, have drawn down millions of dollars of Pell Grant funds. These funds have been used to totally finance the program, pay students for their attendance, and provide profit for all involved. Clearly, these are not the goals of the Pell Grant program. The Staff will report on this college this morning.

While it thus appears that Pell Grant abuse may be widespread, we believe that a review of the participation of the Judaic Studies and Immigrant Culture programs is particularly warranted, given the serious allegations received by the Subcommittee, and will provide the Subcommittee with a most instructive case study.

Our initial investigation has revealed that problems within this particular subset of Pell Grant participants are longstanding. Indeed, as far back as 1977, a review of one such program by the Department of Education found many of the same problems which we are currently encountering, including: (1) ineligible grant recipients; (2) falsification of student applications; (3) variable tuition charges based on the amount of Pell Grant received by the student; (4) an absence of receipts for credits to student accounts; and (5) inadequate custody of Federal funds.

In 1980, the then-Department of Health, Education and Welfare took emergency action to withhold funds from eight yeshivas and seminaries due to, among other things, processing grant applications for ineligible students; using false names and social security numbers; and failing to provide the Government with access to their records. Many of the cases under investigation today by the Department of Education involve similar allegations, and the Department still encounters difficulty in gaining access to relevant records of many Judaic Studies and Immigrant Culture schools.

In 1981, the Department of Education's Inspector General referred to the Criminal Division of the Department of Justice a list of 57 yeshivas and seminaries for investigation and possible prosecution in connection with allegations of falsification of student Pell Grant applications. Included in this list was one of the schools which the Staff is currently investigating.

In 1983, both the Inspector General and the Department of Justice investigated allegations that a consultant to a number of yeshivas had improperly obtained eligibility for non-accredited institutions and had submitted false statements for the purpose of obtaining Pell Grant funds for fictitious or ineligible students. This consultant continues to advise yeshivas today and, in fact, is an adviser to a number of the schools which we have under review.

It thus appears that questionable Pell Grant practices among the Judaic Studies schools are not only longstanding, but also widespread. In addition, it appears that among many of these schools the modus operandi is almost identical. With respect to the activities of the approximately 50 such schools in the New York area in particular, the recent analysis of a high-ranking Department of Education official underscores the need for today's hearing and those which will follow it. A 1992 memorandum, written by a Regional Director for the Department concerning the eligibility of these schools, states:

> A growing body of evidence suggests that their continued participation must be examined in order to protect the Federal Government from fraud, abuse and unreasonable loss of taxpayers dollars.

Our purpose, then, in pursuing an investigation of these schools is not to denigrate the value of religious training in general, nor to question the intrinsic worth of any specific course of religious study in particular. Rather, our purpose is to determine whether, in fact, a major Federal assistance program is being abused or defrauded. To the extent that we do uncover such abuse or fraud, our ability to understand how it was perpetrated will provide invaluable assistance to the Congress in determining those reforms necessary to protect this and other such programs in the future.

PRELIMINARY FINDINGS

1. Abuse Continues to Exist

On the basis of our investigation so far, it appears that abuse of the Pell Grant Program continues to exist among schools offering Judaic Studies and Immigrant Culture programs. While these schools purport to offer standard credit-hour courses leading to a certificate, the Staff is dubious of the programs actually being operated in many instances. These programs do not offer vocational training, and, in fact, a number of them admit in their catalogues that their programs are not designed to lead to any type of employment or placement opportunities. The Staff has been unable to determine how these schools meet the requirements of an "institution of higher education" as defined in The Higher Education Act; so far, no one at the Department of Education has been able to explain it, either.

The Staff's review of the course catalogues of some of these schools shows that for the most part their programs are operated as independent study or mentor programs. Students enrolled in these programs rarely receive any formal classroom instruction and are given little in the way of books or other school materials. Faculty at these schools often consists of little more than members of the local Hasidic community.

The Immigrant Culture Programs draw upon the growing Russian Jewish immigrant population in the New York area. According to one school's catalogue, courses in these programs are designed to fill this population's "burning intellectual and spiritual need, through a program of academics designed to mold the student culturally and acclimate him to the American/Jewish scene." Initial indications, however, are that many of these "students" are elderly men and women—some in their 80's—who occasionally meet in someone's home or in local community buildings to be "taught" by fellow immigrants. A student at one school, an elderly Russian immigrant, described her studies to the Staff by saying, "they teach us English and tell us nice Bible stories." This student, or more accurately this student's school, received $2,400 in Pell Grant funds for this type of instruction. In addition, nearly 2,000 of her "classmates" also received Pell Grants.

Tuition charged for these simple programs often runs in the thousands of dollars. It appears to the Staff that the tuition charges at these schools bear no relation to the actual cost of delivery of this education; rather, it seems that tuition is being artificially inflated in order to qualify students for the maximum amount of a Pell Grant award. Indeed, in a number of cases the Staff has reviewed, the tuition charged was either exactly equal, or closely approximate, to the $2,400 maximum available under the Pell Grant Program. Moreover, in those instances where tuition charges did exceed the amount of a student's Pell Grant award, it appears that some schools have waived the balance of the student's tuition bill. Preliminary indications are that for many of these schools, the majority of their income is derived from Pell Grant funds.

It should be emphasized here that we are dealing with much more than a handful of students and a few thousand dollars in grants. One school the Staff is currently investigating received an aggregate of over $22 million for more than 10,000 students in the past decade. Another school has received over $13 million for 6,400 students in the same period, while two others have each received close to $11 million for 5,000 students.

It also appears that some of these schools actively attempt to attract students by offering them so-called stipends to enroll in courses. The Staff questions whether these stipends are, in reality, nothing more than kickbacks in order to encourage Pell Grant-eligible students to attend a particular school. In the instances the Staff has reviewed to date, the majority of students receiving these stipends have been students receiving Pell Grants. Although the stipends generally only amount to a few hundred dollars per semester, those receiving these stipends are for the most part newly arrived immigrants for whom a few hundred dollars is a tremendous amount of money.

In one such instance, a school offered to provide instructors for an English language course being provided free of charge to Russian immigrants by a local community center. The school informed the community center that it could arrange a program whereby the immigrants could receive a $400-per-year stipend and receive English courses at no cost. The community center agreed to this arrangement, and the school began enrolling hundreds of immigrants in its classes. According to the community center's executive director, the students were not only happy to be learning English, but were particularly happy that they were being paid to attend classes. As it turned out, however, part of the enrollment process for these "no cost" courses involved having the students sign a Pell Grant application. Since the majority of these students had a very limited command of the English language (as evidenced by the fact that they were taking English language courses in the first place), it is doubtful that they understood what they were signing or that they understood that they were enrolling in a course paid for entirely by the Federal Government.

In addition to the examples of problems and abuses the Staff has described above and the case studies we will present this morning, the Subcommittee will hear testimony from the GAO which will detail numerous specific instances of fraud and abuse on the part of these schools, including false applications and the brokering of student biographical data.

2. Systemic Weaknesses Hinder Ability of Department to Deter, Detect, and Pursue Abuses

These types of abuses raise serious questions as to how these schools were able to gain access to the Pell Grant Program at the outset, and how they have managed since that time to remain in the program. The Staff has interviewed numerous officials within the Department of Education, both program officials and officials from the Office of Inspector General. We have also reviewed a number of reports relating to the Department's activities issued by the General Accounting Office, the Inspector General's Office, and the Office of Management and Budget. It appears from our preliminary work that the Subcommittee's 1991 findings with respect to the Department's administration of the Student Loan Program are equally applicable to its handling of the Pell Grant Program—namely, the Department has been inefficient and ineffective in carrying out its responsibilities under this program.

In part, the Department's failure in this regard can be traced to its turbulent history. The findings of a 1993 GAO report are particularly elucidating on this point:

> Over the past 12 years, the Department has found fulfilling its mission increasingly difficult. While its staff has steadily decreased, its work load has grown. ED was hit harder by the reductions-in-force of the 1980's than any other Cabinet department. By fiscal year 1991, ED's use of full-time-equivalent employees had declined 33 percent from its fiscal 1981 level. Yet throughout this period, Congress gave the Department responsibility for 70 new Federal programs.
>
> * * *
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> Exacerbating the work load problems was ED's culture and negative self-image. Early leadership did not enhance the self-image: The first Secretary of Education had only a few months in which to try to organize the Department before a new administration took office. The next Secretary made dismantling the Department a formal goal and did not request a budget for it in fiscal years 1983 and 1984. Subsequent Secretaries focused on external policy agendas, devoting little attention to departmental management.

The GAO went on to state that the lack of attention to Department management extended to the financial management of the Department, which it found suffered from "a lack of a unifying vision and clear priorities." According to the GAO:

> In the past, some managers discounted fiscal integrity as a goal, believing that the Department existed largely to get money out to States and local grantees on time. As a result, ED focused too much on the execution of program funding activities and too little on program accountability. This focus has contributed to the mounting problems with student financial assistance and other financial management weaknesses.

Indeed, it appears to the Staff that with respect to the Pell Grant Program, the Department has been much more effective at giving money away than it has been at ensuring that those to whom the money is given are appropriate recipients.

a. Gate-keeping Functions Not Working

One of the areas in which the Department has been ineffective has been its gate-keeping functions with respect to institutional participation. In a 1992 semi-annual report, the Department's Inspector General stated:

> Our work in recent years has shown that the Department's gate-keeping systems—which control participation of schools in the student aid programs—are flawed. As a result, billions of dollars available through loans and grants are at risk each year.

* * *

Our reviews over the last 3 years of the accreditation, eligibility and certification processes have revealed serious deficiencies that have allowed "problem schools" to participate in the Department's student financial assistance programs, often with results harmful to the integrity of the programs and the interests of the Nation's taxpayers.

Unfortunately, these revelations are not new to this Subcommittee. Indeed, one of the major findings of our 1990 examination of the Student Loan Program was that the triad of State licensure, independent accreditation, and Departmental certification was not effective at screening out institutions which did not belong as participants in that program. Three years later, it appears that the same findings hold true with almost equal force to the Pell Grant Program. Without repeating all of our previous findings in this area, we would like to focus on a few aspects of the gate-keeping function which have particular application to the participation of the Judaic Studies schools in the Pell Grant Program.

One of the statutory requirements for institutional participation in the Pell Grant Program (or any other Federal student financial assistance program) is that an institution be legally authorized to provide a program of postsecondary education by the State in which it operates. In the case of the yeshivas and seminaries offering Judaic Studies programs, the New York State Department of Education has for decades maintained a policy that these schools have "absolutely no accredited status as an institution of higher education in New York State." While these schools do have "charter rights under the Religious Corporation Law to prepare candidates for the Jewish Rabbinate," New York has determined that they have "no legal status to offer courses for secular credit or to confer degrees." On the basis of this determination, New York has excluded these schools from its own State financial assistance programs.

Despite the inability of these schools to meet the basic requirement of State licensure, the Department, in 1967, determined that they could nevertheless participate in Federal student financial assistance programs. According to a 1992 Department memorandum, this determination was "based on the assumption that the rabbinical schools were making 'a unique and meaningful educational contribution to a large segment of the American population.'"

In 1980, the Department's Inspector General questioned the eligibility of these schools on that basis. In response, the Department's Office of General Counsel opined that the policy was "legally supportable," yet suggested that the Department might want to consider a new policy for the future. The General Counsel determined, however, that if the policy were to be changed, notice and comment rulemaking procedures would have to be followed. Such action was never taken.

A second statutory requirement for institutional participation is that a school be accredited by a nationally recognized accrediting agency approved by the Secretary of Education. The purpose of these accrediting agencies is to serve as reliable authorities on the quality of training being offered by various institutions. Until just last year, however, the Higher Education Act contained a statutory loophole for those schools which could not meet the accreditation requirement.

Under what came to be known as the 3IC rule, an institution which was not accredited could nonetheless be eligible for participation if its credits were accepted, on transfer, by not less than three institutions which were accredited. Many of the Judaic Studies schools used, and apparently abused, this rule to gain access to the Pell Grant Program.

One such school initially became eligible under the 3IC rule in October, 1979. Less than 2 months later, the Department took action to remove the school's eligibility after learning that the school's students had never actually enrolled in one of the institutions submitted as accepting their credits. In November, 1980, the school was again permitted to participate in the program after submitting different institutions for 3IC consideration. At the same time, however, the Department's Inspector General was investigating the school for falsely certifying that its students had enrolled at another of the institutions submitted under 3IC.

On the basis of this investigation, the school was once again declared ineligible, and funding for the school was stopped in October, 1981. Two years later, however, the school was declared eligible under the 3IC method, and funding was resumed. By 1984, though, the Inspector General was again investigating problems with the school's 3IC eligibility. Nevertheless, the school remained eligible under this method until 1988, when it obtained pre-accreditation status from a recognized accrediting agency.

With the repeal of the 3IC rule, schools were required to obtain accreditation from a recognized accrediting agency. In the late 1980's, this was a relatively simple matter because, as the Subcommittee pointed out in its 1990 hearings, many accrediting agencies did very little to assure that schools provided the quality of education required for participation in student assistance programs. Indeed, the school we have described above was easily able to obtain accreditation from an accrediting agency once the 3IC rule was repealed.

Since this Subcommittee's hearings, however, the Department of Education has taken a tougher stance with respect to accrediting agencies, and the agencies themselves have tightened their standards. In fact, the very accrediting agency which had accredited the school described above has, in July 1993, instituted new policies and procedures concerning the accreditation of Judaic Studies programs. The tightening of accreditation standards for these schools is particularly noteworthy, because the Staff has recently learned that a number of these schools have undertaken a lobbying effort to have the 3IC rule restored to the statute.

b. Program Compliance Review Ineffective

Once an institution has been granted access to the Pell Grant Program, it is the responsibility of the Department's program review staff to ensure that the institution continues to comply with the program's statutory and regulatory requirements. A school's failure to comply could subject it to limitation, suspension, or termination from the program. This review process thus serves an important function in maintaining the integrity of the program. Our review to date, however, has revealed a review function which has been rendered ineffective due to lack of manpower, resources, and training.

The Department's program review staff, scattered throughout its nine Regional Offices, consists of 89 non-supervisory institutional review employees. These employees are charged not only with reviewing the approximately 6,300 schools which participate in the Pell Grant Program, but all 7,000 schools participating in any Federal financial assistance program. Such a limited staff is obviously incapable of reviewing every participating institution on anything even close to a yearly basis. In fact, the Department's own statistics show that during the 1980's, its program review staff conducted on average only 660 reviews a year. Prior to an ongoing concentrated effort, the last time most of the Judaic Studies schools under investigation by the Staff were reviewed by the Department was in the early to mid-1980's.

The Department provided the following information relative to the reviews conducted of student financial aid participating institutions:

U.S. DEPARTMENT OF EDUCATION STUDENT FINANCIAL ASSISTANCE PROGRAMS

Program Reviews

Fiscal Year	Institutional reviews	Employees
1981	1,058	55
1982	510	47
1983	648	49
1984	721	54
1985	763	56
1986	417	52

U.S. DEPARTMENT OF EDUCATION STUDENT FINANCIAL ASSISTANCE PROGRAMS—Continued

Program Reviews

Fiscal Year	Institutional reviews	Employees
1987	320	55
1988	679	52
1989	820	83
1990	1,137	88
1991	1,017	95
1992	703	92

So, in 12 years, the Department has conducted only 8,793 program reviews. Today, there are over 7,000 schools participating in these programs. The odds are in the favor of the dishonest school administrator or owner. As one senior Department of Education employee told the Staff, "We are being beaten at every turn. The crooks open a new school, run thousands of students through their program, close their school, and retire as millionaires before they were even scheduled for a program review."

The Department's New York Regional Office, under whose jurisdiction most of the Judaic Studies Schools participating in the program fall, has 11 program compliance employees who are responsible for a total of 850 schools in three States, the Virgin Islands, and Puerto Rico.

As the attached chart (Appendix C) indicates, New York and Puerto Rico schools are in the top four jurisdictions for Pell Grant awards.

In addition to being understaffed, the program review specialists apparently are woefully undertrained. Despite being charged with determining compliance with the extremely complex law and regulations covering Title IV financial assistance programs, and providing technical guidance to participating schools, these Government employees receive no formal training in their primary job functions—everything they know has been learned on the job. In its recent report on the Department's management problems, the GAO stated that, "ED has been unsuccessful in developing and upgrading the skills of its current work force due to insufficient training resources." Moreover, subsequent to our last investigation, a 1991 joint Office of Management and Budget/Department of Education study on student financial assistance found "serious weaknesses in human resource management, particularly the lack of employees with adequate financial, accounting, and analysis skills, training, and technical leadership."

In the Subcommittee's 1991 report on the Student Loan Program, it was noted that the Department's program review staff often did not recognize potential fraud or other criminal misconduct because of a lack of any criminal investigative training. As a result, the Subcommittee found that the compliance staff often relied on the Inspector General's Office to detect and pursue these cases, leaving that Office tremendously overburdened. The Subcommittee recommended that the Department recognize the propensity for fraud and abuse by its program participants and provide its program compliance staff with criminal training. Our interviews with Department personnel, however, reveal that this recommendation has not been acted upon and that program review staff still rely heavily on Inspector General personnel for fraud detection.

At the same time, interviews with officials from the Inspector General's Office reveal that that Office remains overburdened. The Inspector General himself told the Staff, "There are a lot of things out there that I know in my heart are wrong, but we haven't been able to look at them." The Inspector General specifically cited the Pell Grant Program as one of those areas where more work was needed, especially because of the limited amount of checks and balances on the outflow of money from that program as compared to other student financial assistance programs.

c. *Closed School Procedures Lacking*

One of the problems we noted in our examination of proprietary school participation in the Student Loan Program was the fact that many of these schools terminated operations in mid-year and walked off with loan and grant monies which should have been refunded to the students and the Federal Government. The Subcommittee recommended that the Department improve its procedures so that it moves quickly to audit these closed schools in order to determine potential losses and attempt to collect monies owed.

It appears, however, that the same systemic weaknesses and lack of staff, training, and resources which has hindered the Department's effectiveness in its gatekeeping and compliance functions are also hindering the Department's ability to effectively audit schools which have closed. This problem was recognized by both the Department and the Office of Management and Budget as early as 1989, during their joint review of "high risk" areas within Education. As a result of that review, a joint OMB and Education task force on closed schools was formed.

The task force ultimately led to the creation, in April 1991, of a Closed School Section under the new Special Initiatives Branch in the Department. The purpose of this new Section is to address issues of assisting students affected by school closings and to coordinate the recovery of funds owed to the Department. Our initial review, however, indicates that the Section is woefully understaffed to handle the volume of work generated by numerous school closings every year.

The Closed School Section has a staff of just six people. These six employees must coordinate actions resulting from the closure of from 25 to 30 schools a month, as well as handle approximately 100 phone calls and 20 letters a week from students affected by school closures. Department personnel have told the Staff that while they are able to keep up with verifying that schools are actually closed, and with notifying appropriate offices both within the Department and related Federal and State agencies, the section has only one person who coordinates the actions involved with recovering funds owed the Department. As with the other areas examined by the Staff, the Closed School Section is still in the process of formalizing procedures to be used.

Not surprisingly, schools that do close, according to Department officials, are not conscientious in providing close-out audits of their programs. If schools do not provide these audits, the Department has few resources available to attempt to collect the records from the school and audit the books themselves. The Department stated that if they have time and the situation warrants, region staff will visit the school's site to attempt to obtain documentation necessary to quantify the potential loss. One Department official, however, told the Staff, "The trade schools are beating the Government time and time again. School owners are becoming millionaires overnight, leaving a trail of uneducated students and defrauded taxpayers." He said that "Schools are popping up, raking in Pell money, and closing their doors before the Department has any idea the school is closed." According to this official, the lack of closed school procedures has allowed the responsible parties to walk away with hundreds of thousands, if not millions of dollars, in Pell grant money, with virtual impunity.

3. Reforms at the Department of Education

Despite the negative tone of our testimony, there is some hope that the Federal Government is, at least, on track to correct some of these abuses.

Following the Subcommittee's 1990 hearings into fraud, waste, abuse, and mismanagement in Federal Guaranteed Student Loan Programs, the Office of Student Financial Assistance Programs was reorganized, creating the "Institutional Participation and Oversight Service," which, for the first time, coordinates the certification and eligibility, accreditation and State licensing, program review and compliance operations within the Department. The Guarantor and Lender Oversight Staff and the Accounting and Financial Management Service are focusing on improved monitoring and systems development in their areas. The Staff notes with much optimism that there seems to be a renewed outlook by both upper management and the career employees regarding their charge to protect Federal funds from fraud and abuse, but much work remains.

In 1992, the Congress reauthorized The Higher Education Act, which included key provisions to strengthen program integrity and to enable the Department of Education to take decisive action against abusive schools. While the Department is working to draft regulations to implement the new law, it will clearly take several years for the new policies to take full effect. The Department's leadership is very optimistic that, with full Congressional support and adequate funding, it can and will be able to assure that Federal student aid funds are being properly and wisely used.

Mr. Chairman, this concludes our general testimony. The following is a summary of our findings relative to three schools we examined.

BAIS FRUMA

BACKGROUND AND DESCRIPTION OF BAIS FRUMA'S PROGRAM

Bais Fruma, located in the Boro Park section of Brooklyn, is a non-profit religious corporation which offers a five-year post-secondary certificate program in Judaic Studies. Begun in 1980, Bais Fruma is affiliated with the Munkacser Hasidic movement, a branch of Hasidic Judaism which has its roots in Hungary. The school itself is named after the mother of Rabbi Moshe L. Rabinowitz, the leader of the American Munkacser community. Bais Fruma has participated in the Federal Pell Grant Program since 1983.

Bais Fruma's affiliation with the Hasidic movement is an important factor to appreciate in order to understand the type of program offered by the school and why its continued participation in the Pell Grant Program raises questions. The Hasidic movement is an ultra-orthodox movement within Judaism which dates back to 18th century Europe. The movement is characterized by its religious zeal and its emphasis on prayer and study. For Hasidim, study is not a means to achieving a goal; rather, it is a goal in and of itself. Indeed, study is more than just a goal, it is a religious obligation. Moreover, study is not a strictly defined process which has a clear beginning, middle, and end. Study within this community is a never-ending process in which new understanding and new insight is constantly sought. Bais Fruma's own school bulletin captured the essence of this approach when it described the community it served as one "famous for its fervency, ardor, and passion for study, rumination, and application of classical Judaic literary concepts."

Thus, although it is established on paper as a certificate-granting institution, it is clear that the certificate offered by Bais Fruma has little, if anything, to do with its true mission. This is readily evident from Bais Fruma's own documents. According to its 1991–1993 Bulletin, "Bais Fruma is a post-secondary school of Hebraic and Judaic studies focusing on the promulgation of life-long learning and intellectual enrichment." Its "primary objective," as stated in the Bulletin, is "the offering of educational opportunities for adults who desire to pursue time-honored Jewish scholarship."

The school's mission is further described in a 1991 Analytical Self-Evaluation Report provided by Bais Fruma to the Accrediting Commission for Continuing Education and Training (ACCET), its accrediting agency. In that report Bais Fruma states as follows:

> Bais Fruma's raison d'etre emanates from its fundamental belief in the inalienable right of every individual to share in the wisdom of his/her heritage, to benefit from the rich cultural legacy which it transmits, and to gain deeper, intellectual perspectives of the classical dimensions of its philosophy, literature, codes, and history.

Bais Fruma emphasizes that it is a non-vocational institution which offers its students neither placement nor job referral services. In this regard, Bais Fruma's Self-Evaluation Report contains the following Placement Disclaimer:

> Bais Fruma's Judaic Studies Certificate program is a non-vocational study program. It offers students an opportunity for personal growth and development, rather than for career preparation or professional progress. In fact, Bais Fruma does not guarantee its students or graduates employment or placement as a result of their studies at the institution. Neither does Bais Fruma claim in any way to advance its students' earning opportunities as a result of earning the Judaic Studies Certificate.

The program offered by Bais Fruma is structured as an independent, or self-directed, study program. Bais Fruma provides its students with no equipment, no supplies, no books, no classrooms, no teachers, and no classes. Students study a subject on their own under the guidance of a mentor, with whom they are supposed to maintain at least eight contacts during a semester. According to Bais Fruma's Bulletin, this program is designed to "meet the needs of adults who prefer to study independently, or who are unable to attend regular classes due to employment, family obligations, or geographic limitations."

BAIS FRUMA'S PARTICIPATION IN THE PELL GRANT PROGRAM

In light of Bais Fruma's educational structure, philosophy, and objectives, the Staff questioned how this school was allowed in the first instance to participate in the federally funded Pell Grant Program. As is the case with the other schools we describe in this Statement, it appears that the gate-keeping functions envisioned by the Higher Education Act once again proved ineffective at preventing the entry of a questionable school.

Bais Fruma first applied for approval to participate in Federal student financial assistance programs in 1983. In order to obtain such approval, Bais Fruma had to meet three major statutory requirements: (1) that it be legally authorized to offer a program of post-secondary education in the State in which it is located; (2) that it be accredited by a nationally recognized accrediting agency approved by the Secretary of Education; and (3) that it be certified and determined to be eligible by the Department of Education.

Because of its status as a religious institution, Bais Fruma is not licensed by the New York State Department of Education for the purpose of offering courses for credit or conferring degrees. Although it thus failed to meet the first requirement for program participation, namely that it be legally authorized within its State to provide a program of post-secondary education, Bais Fruma, like many other Judaic Studies schools in New York, was allowed to participate in these Federal programs on the basis of a 1967 determination by the then-Office of Education that "rabbinical schools were making 'a unique and meaningful educational contribution to a large segment of the American population.'"

Bais Fruma was initially determined to be an eligible institution for financial assistance programs despite the fact that it also failed to meet the second statutory requirement that it be accredited by a recognized accrediting agency. Again, like a number of Judaic Studies schools, Bais Fruma utilized a statutory loophole, known as the 3IC rule, to get around the accreditation requirement. Under the 3IC rule, an institution which is not accredited could nonetheless be eligible for participation if its credits were accepted on transfer by not less than three institutions which were accredited. Bais Fruma used the 3IC alternative to accreditation to obtain its initial approval in 1983, and again to obtain reapproval in 1986. Congress subsequently repealed the 3IC rule in the Higher Education Act Amendments of 1992.

The third major requirement for program participation includes a certification by the Department of Education of an institution's financial and administrative capabilities and a determination by the Department that the institution is eligible under the definition of an institution of higher education. With respect to the Department's determination of eligibility, it appears to the Staff on the basis of a review of the pertinent documents that the Department may have been misled by Bais Fruma as to the true nature of Bais Fruma's educational program.

The Department's standard form for requesting institutional eligibility at one time contained a question for non-profit institutions as to whether or not they train individuals for religious vocations or to be teachers of religion. In its initial application in 1983, and in its subsequent renewal applications in 1986 and 1989, Bais Fruma answered "yes" to this question. This answer is in direct contradiction to the statements made by Bais Fruma concerning its history and mission in its current Bulletin and Self-Evaluation Report. Nowhere in either of those documents is any mention made of Bais Fruma having at any time prepared students for religious vocations or to be teachers of religion.

The Staff's review of the Department's eligibility and certification files for Bais Fruma uncovered another intriguing document in this regard. It is an eight page typed document with a cover page entitled "Bulletin, Bais Fruma, 1982–1983." In the upper right-hand corner of the title page is a hand-written notation stating, "Hand-delivered by Rabbi Tenenbaum, 5–24–83, LR." Rabbi Tenenbaum has been a consultant to a number of Judaic Studies schools over the years and has helped many of them to obtain eligibility for program participation.

This Bulletin exclusively uses the words "she" and "her" when making generic references to students, leaving the impression that Bais Fruma is a school for women. The Bulletin contains no listing of course offerings, nor does it refer to the school's program as being one of independent or self-directed study. No mention is made of mentors. On page seven of the Bulletin, under the heading "Completion of Program," the following statements are made:

> Students who have successfully completed the Four Year Course of study and fulfilled all requirements receive a teachers certificate, entitling them to teach in the grades and language of instruction for which they mastered. The Bais Fruma Institute will help its graduates in securing teaching positions and in providing professional advice and help whenever needed.

This 1982–83 Bulletin, which apparently was provided to the Department of Education as part of Bais Fruma's initial application for eligibility, portrays the school as a four-year women's teacher's seminary which grants teaching certificates in Jewish education. No indication is given that Bais Fruma is an independent study school which grants certificates in a non-vocational Judaic Studies program.

The Staff compared this typewritten Bulletin with another Bulletin from Bais Fruma. This Bulletin was for the year 1984–1985, a year after Bais Fruma had been approved for participation in the Pell Grant program. In contrast to the 1982–83 Bulletin, this one was typeset. The 1984–85 Bulletin was much more extensive, containing a listing of courses offered and other information not contained in the 1982–83 Bulletin. The 1984–85 Bulletin, however, contains a strange anomaly. On page fourteen, under the general heading "Assessment of Student Performance," the Bulletin contains the same language about students having successfully completed the program receiving a teacher's certificate. On page sixteen, though, under the heading "Requirements for Graduation," the Bulletin states that, "Bais Fruma offers an undergraduate certificate program in Judaic Studies." The heading for "Requirements for Graduation" is listed in the Bulletin's Table of Contents; the heading for

"Assessment of Student Performance" is not. Moreover, this Bulletin refers to the program as one of independent study, describing the program as "a flexible program for those students who want to obtain a certificate in Judaic Studies but cannot attend regularly scheduled on-campus classes. . . ."

By the time Bais Fruma published its 1991–1993 Bulletin, all references to teacher's certificates and job placement as teachers had been eliminated. The program portrayed in this Bulletin was strictly an independent study program leading to a certificate in Judaic Studies and not guaranteed to lead to any employment or career advancement.

It is possible that Bais Fruma started out as a women's teacher's seminary and eventually changed over to a broader based Judaic Studies program; however, none of the history of the school provided in its current Bulletin or in its Self-Evaluation Report makes any reference to a previous incarnation as a teacher's seminary. In fact, Bais Fruma's Self-Evaluation Report provides a history of the development of the school which states that it grew out of a weekly lecture series on topics of Jewish interest which had been designed to cater to the educational needs and aspirations of adults. According to the Self-Evaluation Report,

> Ultimately, some . . . participants developed into a highly motivated group which met on its own following each lecture to further discuss the topic and to study the sources quoted by the speaker. This development was observed by Rabbi Rabinowitz who recommended that the study group be led by a facilitator. Following several months of "organization" the group approached Rabbi Rabinowitz with the following written request:
>
> May we have your blessing to commence an ongoing program in the Study Hall of the Munkacser synagogue. This arrangement will enable us to study at our convenience in a spacious and comfortable setting, while being surrounded by other scholars.
>
> In June 1980 Bais Fruma was born, and was named in memory of Rabbi Rabinowitz' mother. The first group of registrants started their mentored, independent study program in September 1980.

Questions as to Bais Fruma's development and initial programs could certainly be easily answered by the current administration of the school. Indeed, the school's current administrator, Rabbi Simcha Waldman, has been with Bais Fruma since its initial application for program eligibility. Unfortunately, Rabbi Waldman, and every other member of Bais Fruma's administration and management have refused to respond to the Staff's questions by invoking their Constitutional privileges against self-incrimination under the Fifth Amendment.

BAIS FRUMA'S PELL FUNDING

Once Bais Fruma obtained approval to participate in the Pell Grant program, its receipts from the program rose steadily. For the 1983–1984 school year, the first for which it was eligible, Bais Fruma received $149,725 for 86 Pell Grant recipients. By 1991, those figures had grown to more than $4.5 million for 1,997 recipients. Over the ten years that Bais Fruma has now been participating in the Pell Grant program, it has taken in $22,440,277. The following chart shows the progression of Bais Fruma's receipts under the program. (See also Appendix D.)

Academic year	Recipients	Dollar amount
1983–1984	86	$ 149,725
1984–1985	240	$ 446,300
1985–1986	308	$ 638,100
1986–1987	441	$ 891,840
1987–1988	1,004	$2,054,725
1988–1989	1,281	$2,759,850
1989–1990	1,457	$3,277,500
1990–1991	1,781	$3,963,987
1991–1992	1,997	$4,571,650
1992–1993	1,625	$3,686,600

As the chart shows, there was a tremendous jump from 1986 to 1987, with both the number of Pell Grant recipients and the dollar amount received by Bais Fruma more than doubling. The Staff has no explanation for this steep rise and again was unable to obtain any explanation from the school because of the refusal of school personnel to respond to Staff questioning. The Staff does note in this regard that the 1986–1987 academic year was the last year in which Bais Fruma participated in both the Pell Grant program and the Federal guaranteed student loan program.

From the 1987–1988 academic year on the Pell Grant program has been the only Federal financial aid program in which Bais Fruma has participated.

APPARENT ABUSE OF THE PELL GRANT PROGRAM

1. Sign Up Whomever You Can

It appears to the Staff that Bais Fruma has turned into a virtual Pell Grant mill, and that its real raison d'etre may have more to do with obtaining Pell Grant funding than with providing educational opportunities. Almost all of Bais Fruma's enrolled students receive Pell Grant funding, and the vast majority of those receive the maximum yearly award of $2,400. According to workpapers provided to the Subcommittee by Bais Fruma's certified public accountant, for the 1991–1992 academic year 97 percent of Bais Fruma's students received Pell Grants.

Where do these students come from? An analysis by the Staff shows that Bais Fruma is enrolling entire families and even entire neighborhoods into its program. In the 1991–1992 academic year, 1,997 Bais Fruma students received Pell Grants. This number was comprised of 530 families which had at least two family members receiving a grant. Of these 530 families, 50 families had three or more members receiving grants. In one instance a family had nine members attending Bais Fruma on Pell Grants.

The Staff also found heavy concentrations of grant recipients within certain neighborhoods. For example, one five block stretch of Penn Street in the Williamsburg section of Brooklyn contained over 70 Pell Grant recipients from Bais Fruma.

The Staff has found another strange pattern for which it as yet has no clear explanation. As was the case in the other schools the Staff has examined, a number of students receiving Pell Grants to attend Bais Fruma had also received grants to attend three or more other Judaic Studies programs. It appears that these students attended one school 1 year, then another school the following year, a third school the next year, and so on, without ever obtaining a degree or certificate from any of the schools attended. At least 47 Bais Fruma students exhibited this pattern.

It is possible that these students shifted schools on their own because of differing stipends paid by different schools. It is also possible that they were directed by others to shift schools in order to maximize the spread of Pell Grant money or for some other reason. In one instance, a student named Judith Schwartz received Pell Grants to attend Beth Rochel Seminary, Rockland Community College, Touro College, and Bais Fruma. In an interview with officials of the General Accounting Office and the Department of Education, Ms. Schwartz stated that she went to whichever school "they sent me." When asked who "they" were, Ms. Schwartz started to give a name, but then stated that she did not know who.

The Staff has been unable to find anyone willing to explain this pattern to us. Even the students themselves can offer no logical explanation for their constant shifting of programs. It appears, however, that these students have little, if any, idea of what program they are attending at any given time, or of the fact that the Federal Government is paying for their attendance at these programs. Ms. Schwartz, the student interviewed by the GAO, could not recall the name of the schools she had attended, nor did she know that she had received Pell Grants for 6 years at four different schools. Another student, Leah Silberstein, when questioned by the Staff as to her enrollment in four different schools, seemed confused and asked, "Isn't it all one school?" Ms. Silberstein told the Staff that she assumed the City of New York was somehow paying for her classes. She had no idea that the Federal Government was paying for her classes through the Pell Grant program, even though she would have had to have signed a Pell Grant application in order for her school to receive Pell funding on her behalf.

It is possible that these students' names were merely sold or otherwise passed on to various schools without the knowledge of the student or the attendance of the student at the institution which received Pell Grant funding on his or her behalf. The Staff has come across at least two instances in which this may be the case.

Mahbuba Yekutiel received six Pell Grants to attend Judaic Studies programs at four separate institutions, including Bais Fruma, Touro College, Rockland Community College, and United Talmudical Academy. When questioned by the Staff as to her attendance at so many schools, Ms. Yekutiel could only remember attending United Talmudical Academy and an institution known as Brite. Ms. Yekutiel said that she could not recall enrolling in, or attending, any other post-secondary institutions, including Bais Fruma. In fact, Ms. Yekutiel stated that she had never heard of Bais Fruma. Despite Ms. Yekutiel's statements that she had never attended Bais Fruma, Department of Education records show that Bais Fruma received Pell Grant funding for Mahbuba Yekutiel in 1988.

Department of Education records also show that another student, Sara Hoffman, received Pell Grants to attend United Talmudical Academy of Monsey, Bais Fruma, Touro College, and Rockland Community College. When questioned about this pattern of attendance, Ms. Hoffman stated that she had never enrolled in, or attended Touro College or Bais Fruma. Ms. Hoffman even provided a handwritten statement to that effect which she signed in the presence of a representative of the General Accounting Office.

Under subpoena, the Staff obtained from Bais Fruma the student file of Sara Hoffman. The file correctly listed Ms. Hoffman's home address and social security number. Included in the file were: (1) a signed application for admission; (2) a signed certification of graduation from high school; (3) signed registration forms for the Fall 1989 and Spring 1990 semesters; (4) a signed tuition contract for the Fall 1989 and Spring 1990 semesters; (5) Enrollment Maintenance forms for the Fall 1989 and Spring 1990 semesters signed by a Bais Fruma mentor; (6) two separate signed versions of a Pell Grant certification stamped with the Bais Fruma institutional stamp; (7) a tuition card for the 1989–1990 academic year showing receipt of $2,300 in Pell Grant funds for Sara Hoffman; and (8) an academic transcript showing grades for the Fall 1989 and Spring 1990 semesters.

A comparison of the various signatures (see Appendix E) on the Bais Fruma documents with the signed statement provided by Ms. Hoffman to the GAO representative reveals these signatures to be inconsistent with the known signature of Ms. Hoffman and with each other. The Bais Fruma documents contain what appear to be three different types of signatures for the name Sara Hoffman, and only one of them (the signatures contained on the Application and Registration forms) appear to even come close to the known signature of Ms. Hoffman. In fact, a number of the Bais Fruma documents not only contain signatures different from Ms. Hoffman's, but they misspell Ms. Hoffman's first name. Ms. Hoffman spells her first name "Sara," while some of the Bais Fruma documents spell the name "Sarah."

Among the documents which misspell Ms. Hoffman's name is the signed Pell Grant certification. As we noted before, the file contained two separate signed versions of a Pell Grant certification. Although the information on both is identical, and both are dated the same day, one is signed with the first named spelled "Sarah" and the other is signed with the first name spelled "Sara." Neither of these signatures matches the signature on Ms. Hoffman's signed statement to the GAO. Who signed these documents and what knowledge did Bais Fruma officials have of them? Unfortunately, the Staff can only speculate at this point due to the refusal of Bais Fruma officials to submit to questioning.

It does appear clear, however, that Bais Fruma utilized the services of at least one student broker for the purposes of signing up Pell Grant eligible students. The Staff has obtained the files of 33 Bais Fruma students which came from an admitted student broker by the name of Jacob Ginzburg. All of these students, which included Ginzburg himself and his wife Malka, received Pell Grants.

Jacob Ginzburg ran a business known as PennStar Consultants, which initially specialized in immigration work. At some point, however, it appears that Ginzburg became involved in the business of brokering students to various Judaic Studies programs and assisting students and/or schools in the Pell Grant application process. In 1992, Ginzburg's offices were raided by agents of the U.S. Immigration and Naturalization Service and Ginzburg was arrested for immigration fraud. At the time Ginzburg was arrested, INS agents seized approximately 120 files relating to Pell Grant applications. Of those files seized, 33 were for students enrolled at Bais Fruma.

Subsequent to Ginzburg's arrest, Ginzburg's attorney informed Federal authorities that Ginzburg had told him that he had been a broker for several schools. According to the attorney, Ginzburg told him that he was paid by these schools between $50 and $75 for each student enrolled. The Staff would have liked to have pursued with Mr. Ginzburg the issue of his relationship with Bais Fruma and other schools; however, shortly after his arrest Mr. Ginzburg fled the country and currently is a fugitive from justice.

The GAO, however, did locate Ginzburg's former secretary, Wendy Ifill. From a sworn affidavit she provided to the GAO, it appears that Ginzburg's primary role with respect to providing students to schools was to ensure that they were Pell Grant eligible. In her affidavit Ms. Ifill stated that she was given files by Ginzburg to be used in filling out blank Student Aid applications. Although the applications were blank, Ms. Ifill stated that some of them were already signed.

Ms. Ifill also stated that she typed employment and income verification letters on Ginzburg's instructions and that the employer's signature on some of these letters (which are used in connection with the Pell Grant application process) were signed not by the employer, but by herself or Ginzburg. Ms. Ifill stated that in some instances she created an employer's letterhead herself to be used for a verification letter. A number of these letters were contained in the files of Bais Fruma students seized from Ginzburg's office.

Subsequent interviews with a number of the purported employers of these Bais Fruma students revealed that not only were the signatures and letterhead forgeries, but that the substance of the letters were a complete falsehood. In the case of David Grynsztayn, Ginzburg's file contained a letter purportedly signed by Amnon Levy of Kosher "R" Us, stating that Mr. Grynsztayn was paid $8,000 in 1990. When interviewed, Mr. Levy stated that neither the letterhead nor the signature on the letter were his. He further stated that he had never heard of David Grynsztayn and that he had never employed anyone by that name at Kosher "R" Us or any other establishment owned by him.

Jaish Waknin is also a Bais Fruma student whose file was among those seized from Ginzburg's office. Contained in that file were two letters signed by Isaac Borzikowsky on behalf of The Aperion catering hall which stated that Mr. Waknin was employed there from 1989 to 1990 and earned a salary of $8,000 each year. One letter was dated September 5, 1990 and the other was dated June 24, 1991. An interview with Alex Klein, the owner of the Aperion, not only revealed that he had never heard of or employed Jaish Waknin, but that the Aperion had closed down in 1989. Mr. Klein stated that he reopened the catering hall as The Alexandria in February 1990. According to Mr. Klein, any document dated 1990 or 1991 with the Aperion letterhead would have to be a fake.

Rachel Geffen's file was also seized from Ginzburg's office. That file contained a letter from Harstein's Clothing certifying that Ms. Geffen had been employed in 1990 as an alterations tailor at the salary of $6,300. The letter was signed with the name M. Harstein. In an interview, Mr. Harstein stated that he had never heard of the name Rachel Geffen before. Mr. Harstein then explained that his clothing store catered to the clothing needs of the male Hasidic community. As such, Mr. Harstein explained, no woman would ever be allowed to work in his shop as a tailor. Mr. Harstein was very upset that someone had forged his signature in this regard and wanted to know who was responsible.

In each of these cases, the Subcommittee obtained under subpoena from Bais Fruma a copy of the relevant student's file maintained at the school. Strangely enough, none of the files produced by Bais Fruma contained the employment verification letters which had been contained in Ginzburg's files. Each Bais Fruma file, however, did contain a Department of Education Verification Worksheet which listed the same employers and same salaries as were contained in the forged letters in the Ginzburg files. The Staff does not know whether the verification letters were removed from the Bais Fruma files prior to the school's producing them to the Subcommittee or whether they never existed in school's files in the first instance. We attempted through counsel for Bais Fruma to ascertain whether everything contained in the students' files had been produced. To date we have not received a response to this request.

The Staff notes that each of these student's files contained a Payment Voucher form filled out by Bais Fruma. One of the boxes on this form is entitled Verification Status. For each student, Bais Fruma had checked "Accurate" as the Verification Status despite the fact its file contained no supporting documents for the information contained on the Verification Worksheet.

These three files were not the only ones which lacked supporting documentation. The Staff reviewed the files of numerous students whose financial aid applications had been selected for verification. In almost every instance, the only documentation contained in the file was the verification worksheet. Even in instances where the verification worksheet showed that an income tax form had been filed, the file failed to contain this documentation. Yet, in each case the payment voucher listed verification status as accurate.

The Staff is not the first to question Bais Fruma's verification procedures. Samuel Kohn is a C.P.A. hired by Bais Fruma to prepare an Auditor's Report and Examination of Bais Fruma's compliance with Pell Grant Program regulations. He issued two reports to the Department of Education—one for the 2 year period ending June 30, 1989 and another for the 2 year period ending June 30, 1991. In each report, Mr. Kohn found instances of improper verification. Although he found little, if any, effect on actual awards as a result of these instances, Mr. Kohn nevertheless recommended in each report that Bais Fruma "carefully review their verification determinations, to assure proper coding of verification status." In response to Mr. Kohn's 1991 report, the Department of Education issued a program determination letter to Bais Fruma in which it stated with respect to verification procedures that "the institution must review its procedures to ensure that it is in compliance with the regulations."

In light of the three false verifications cited above which were processed by Bais Fruma as accurate, the Staff questions whether Bais Fruma merely has faulty verification procedures or whether it is knowingly processing false applications in order to obtain Pell Funding on behalf of these students. The Staff's concern in this regard is heightened by other discrepancies noted in various student files.

As was the case with Sara Hoffman, the Staff noted a number of student files in which the signatures on various documents contained within the file were inconsistent. In some cases, the spelling of a student's first or last name changed from one document to the next. For instance, the file of Chaya Markowitz contained documents in which the first name was spelled "Chaya" along with a number of documents which were spelled "Chaia." Similarly, the file of Brocha Klein contained documents in which the first name is spelled "Brocha" and other documents in which the name is clearly spelled "Bracha." In the case of Jaffa Dayan, some documents contain a signature in which the last name is spelled "Dayan," while other documents contain a signature in which the last name is spelled "Dauam."

In the case of both Brocha Klein and Sarah Cohen, the signatures on the documents contained in Bais Fruma's files also consistently misspelled the last name of each individual.

The Staff also noted that the files of at least six students listed the exact same home address. Among the students listed at this address were Chaia Markowitz, Brocha Klein and Sarah Cohen. When the Staff went to this address we found that it was not an apartment building, but rather the site of the Talmud Torah Toldos Yaacov Yosef, an elementary and secondary school which has an affiliated post-secondary Judaic Studies program currently under investigation for Pell Grant abuse. The address, 1373 43rd Street, Brooklyn, New York, also turns out to be only a few doors down the street from the home of Bais Fruma's Director of Financial Aid. One would think that this individual, whose job responsibilities include supervising review of applicant data and monitoring enrollee eligibility, might have noticed the fact that six separate students listed a home address so close to his and might have recognized as well the identity of that address.

The totality of the evidence cited above raises serious questions in the minds of the Staff as to whether Bais Fruma had any regard for who it enrolled or how it got its enrollees. It appears to the Staff that Bais Fruma was not so much concerned with offering educational opportunities for adults to pursue Jewish scholarship as it was with signing up whomever it could get its hands on in order to maximize Pell Grant disbursements to the school.

2. Bais Fruma's Independent Study Program is Highly Suspect

In addition to questions about Bais Fruma's enrollment practices, the Staff also has serious questions about the structure of Bais Fruma's educational program. In the first instance, Bais Fruma's tuition charges seem to bear no rational relationship to the school's true costs of providing its educational program. Rather, it appears to the Staff that Bais Fruma's tuition has been artificially set, again in order to maximize the amount of Pell Grant disbursements for which its enrollees may be eligible.

As we have previously discussed, Bais Fruma's program is run entirely on an independent study basis. The school provides no books, no supplies, no equipment, no dormitories, no classrooms, and no teachers. It has a small administrative staff of less than a dozen individuals and a network of mentors who meet with students a handful of times a semester, often over the telephone. For this program, Bais Fruma charges its students $2,500 per year. The Staff notes that the maximum amount for a Pell Grant which a student may receive is currently $2,400. Moreover, an important part of the calculation of how much an individual student is eligible for in Pell Grants takes into account the cost of attendance at the student's institution. A review of Bais Fruma's 1991–1993 Bulletin also reveals that its two page section on financial aid deals exclusively with an explanation of the Pell Grant program.

Despite its lofty statements about its educational mission and objectives contained in its Bulletin, the Staff questions whether Bais Fruma is truly committed to the type of education it is providing. According to its Bulletin, Bais Fruma expects each enrollee to maintain at least eight contacts with his or her mentor each semester. A review of the school's mentor contact logs, however, reveals that the log form contains spaces for recording only six contacts per semester. Many of the log forms reviewed by the Staff showed only five of these six contacts were ever actually made. Moreover, in many instances reviewed by the Staff, contacts made were over the telephone rather than in person.

Bais Fruma's Self-Evaluation Report states that mentors are required to record on their logs the date of each contact with a student and the "essence of the facilitation which took place." According to the Report, "these facts register the student's progress through the course outline and the mentor's ability to guide and motivate him/her in the event that the student falls behind." In reality, however, the mentor logs contain nothing more than a column entitled "Observation" with a choice of checking off either "academic progress maintained" or "enrollment terminated." Of over 40 mentor logs reviewed by the Staff, not one was found to have additional written comments or notations beyond the checkmarks. The utility of such logs in actually monitoring student progress is highly suspect in the Staff's mind.

Indeed, the mentor logs for one student showed six contacts in each semester of the academic year and the observation "academic progress maintained" checked off each time. The academic transcript for this student, however, showed the student receiving straight "Ds" each semester for a cumulative grade point average for the year of 1.0, well below the 2.0 GPA listed in Bais Fruma's Bulletin as required to evidence satisfactory academic progress. Despite this record, the student received her full Pell Grant award in each semester.

In addition to the mentor logs, each mentor is supposedly required to keep "a personal detailed record of the essence of his/her conference and the particular issues discussed." These records are supposed to note "any specific recommendations which were offered, as well as observations of the student's competency with the learning materials." At the end of a term, these records are to be submitted by the mentor to the supervising Dean. None of the student files reviewed by the Staff contained these types of mentor records.

According to Bais Fruma's Bulletin, student performance and achievement is assessed on the basis of mid-term and final examinations coupled with the mentor's evaluation of the student's progress. In reality, examinations are often sent to the student's home in the mail. The student completes the exam at home, using open book, and then mails it back to the mentor. Again, the utility of such an exercise is highly suspect to the Staff.

Indeed, a close analysis of Bais Fruma's program leads one to question the reasons for its establishment as an institution which grades students and confers certificates. In essence, the students enrolled in Bais Fruma's program are doing nothing more than reading various Jewish texts on their own and occasionally discussing these texts with someone supposedly more learned than themselves. It should be remembered, as we discussed at the outset of this section, that this activity is taking place in the context of a community which views the study of Jewish texts as part of one's religious obligation. Thus, Bais Fruma's students are in reality doing nothing more than what any observant member of the community would otherwise engage in as part of his religious observance.

The certificate awarded by Bais Fruma appears to be an essentially worthless piece of paper because, as Bais Fruma itself states, its program is not designed to lead to career preparation or professional progress. Students enrolled in Bais Fruma's program therefore must be engaging in this course of study for the sake of knowledge itself. Again, it must be remembered that this is exactly the view of study which is at the core of this community's religious beliefs.

Why then create a program which has grades and academic transcripts, which tracks "satisfactory academic progress" and which awards certificates of Judaic Studies? In the absence of any evidence to the contrary, it seems clear to the Staff that the only reason must be in order to qualify such a program to receive Federal student financial aid funds. This is exactly what Bais Fruma appears to have done. It applied to participate in Federal student financial aid programs at the earliest moment at which it became legally entitled. Upon being accepted, it steadily increased its participation to the point at which it was receiving over $4.5 million in Pell Grants in 1 year alone. In fact, in 1992, Bais Fruma's Pell Grant receipts constituted over 86 percent of its total income. To date, Bais Fruma has received over $22.4 million from the Federal Government.

WHERE DID ALL THE MONEY GO?

The main questions all of this leads to, of course, are why would Bais Fruma want access to Federal funds and what has it done with the Federal money it has received over the years. Once again, the Staff can only speculate on these issues because of the refusal of Bais Fruma officials to submit to questioning. A review of Bais Fruma's financial statements and bank accounts, however, does suggest some possible answers.

The Staff reviewed Bais Fruma's bank account records for the period December 1989 through April 1993. This review revealed the following payments during that time period:

BAIS FRUMA'S BANK ACCOUNT RECORDS

Account	Amount
Congregation Kehilas Moshe (1/18/91–8/10/92)	$ 12,640
Congregation Be'er Shmuel (3/2/92–4/28/93)	16,000
Congregation Tiferes Mordechai (1/16/91–4/28/93)	33,250
Congregation Yismach Moshe (12/15/89–4/28/93)	66,000
Mosdos Munkacs (3/27/91–2/6/92)	78,000
Yeshiva Minches Eluzar Kollel (3/17/91–4/28/93)	92,500
Rabbi Abraham Tenenbaum (1/4/90–4/19/93)	96,000
Yeshiva Minches Eluzar (3/17/91–4/28/93)	182,500
United Munkacser Yeshiva (3/1/90–8/1/91)	210,000
Congregation Kahal Adas Israel Munkacs (7/3/90–5/7/93)	241,000
Rabbinical Seminary of Munkacs (11/26/90–4/28/93)	412,500
Yeshiva Chaim V'Shulom (2/18/90–4/28/93)	510,000
Yeshiva Tifereth Bunim (12/7/89–4/28/93)	520,000
Congregation Kollel Tifereth Zvi (2/20/90–4–28/93)	648,000
Boro Park Torah Institute (12/26/89–4/28/93)	$1,295,375

Cross-checking these payments against Bais Fruma's financial statements reveals that the payments to the Rabbinical Seminary of Munkacs represent payment on a mortgage for a piece of property at 1377 42nd Street in Brooklyn. This mortgage, which commenced in September 1991, is in the amount of $700,000 and its terms call for interest only payments for ten years payable at an interest rate of 7.5 percent. The Staff notes that Bais Fruma made five payments totalling $250,000 to the Rabbinical Seminary between November 1990 and June 1991, well before the commencement of the mortgage. The Staff has been unable to determine whether these payments were related to the purchase of this property.

The payments to the Boro Park Torah Institute also represent payment on a mortgage, this one in the amount of $2,000,000 for a piece of property located at 4018 15th Avenue in Brooklyn. This address is literally around the block from the first property. The terms of this mortgage, which commenced in September 1988, also call for interest only payments for ten years; however, the interest rate for this mortgage is 18 percent. This rate seemed excessive to the Staff, so we checked the mortgage rate indices for 1988. Our suspicions were confirmed—in September 1988, mortgage rates ranged between 10 percent and 11 percent. Why then would Bais Fruma sign a mortgage for seven to eight percent more than market rates? Unfortunately, the Staff has no answer to this question. Moreover, as we all know, rates have dropped steadily since that time and today range between 6 percent and 7 percent. Despite this steep drop in rates, Bais Fruma has never sought to refinance this mortgage. Again, the Staff has no explanation as to why Bais Fruma has held onto such an excessively high mortgage in the context of continually falling rates.

Information received by the Staff within the past week and a half, shows that neither of these mortgages were ever reduced to a written note. The lack of documentation on these mortgages raises questions as to whether these are, in fact, legitimate arms-length transactions.

The Staff went to the addresses of these properties to see what exactly Bais Fruma was paying for. As you can see from these photos (see Appendix F), each of these buildings is nothing more than an empty shell. Each building carries a sign stating "Future Site of Bais Fruma"; however, the Staff saw no evidence of any renovations having been completed or even commenced, despite the fact that Bais Fruma has held one building for 5 years now and the other building for 2 years. In light of fact that Bais Fruma's program is run as an independent study program and utilizes neither classrooms, laboratories, nor dormitories, the Staff questions why Bais Fruma needs two such large buildings and what it intends to do with them.

A closer examination of the mortgage holders on these properties makes these payments even more intriguing. The Rabbinical Seminary of Munkacs is, of course, run by the Munkacser Hasidic movement. The Munkacser movement also runs Bais Fruma. Moreover, a check of the Metronet name and address data base reveals two addresses for the Rabbinical Seminary of Munkacs—4712 14th Avenue and 4601 14th Avenue in Brooklyn. These addresses were confirmed by a call to Directory Assistance for the 718 area code. Of the two addresses listed for the Rabbinical Seminary of Munkacs, one—4601 14th Avenue—is the same address as that of Bais Fruma.

The Boro Park Torah Institute also appears to be affiliated with the Munkacser movement. A check of the Real Property Display data base for the address 4018 15th Avenue shows the owner to be "Boro Park Torah Institute c/o Rabbinical Seminary of Munkacs." A cross check with Directory Assistance for the 718 area code revealed no telephone listing for a Boro Park Torah Institute.

It should be remembered that Bais Fruma is established as a non-profit organization; therefore, excess income which might normally be considered profit must be set aside as reserves against future contingencies or put to use for the benefit of the organization. It is possible that these mortgages are nothing more than convenient ways for Bais Fruma to launder its profits, while at the same time legitimizing what is in essence nothing more than the transfer of Federal funds from one arm of the Munkacser movement, namely Bais Fruma, to other affiliated arms, namely the Rabbinical Seminary and the Torah Institute.

Similarly, the Staff questions the payments to Mosdos Munkacs, United Munkacser Yeshiva, Congregation Kahal Adas Israel Munkacs, Yeshiva Minchas Eluzar Kollel, and Yeshiva Minchas Eluzar, insofar as each of these entities are also arms of the Munkacser Hasidic movement. The affiliation of the first three is obvious from their names. The affiliation of the latter two was determined when the Staff visited the 4712 14th Avenue listed for the Rabbinical Seminary of Munkacs. On the outside of this building, which is only one block away from Bais Fruma, was an inscription in Hebrew which read "Beit Midrash V'Yeshiva Minchas Eluzar Munkacs."

According to Bais Fruma's Cash Disbursements Journal for the period September 1, 1991 through August 31, 1992 (the only period for which the Subcommittee was provided with such a journal), the payments to Mosdos Munkacs and Yeshiva Minchas Eluzar Kollel were for "educational research." The Staff notes that for the 2 year period from March 1991 through April 1993 Bais Fruma paid a total of $170,500 to these two institutions. In addition, Bais Fruma also made a one-time payment of $8,000 to K'hal Chasidim Munkacs London in February 1992, and a one-time payment of $5,000 to K'hal Chasidei Munkacs in March 1992. The purpose of these payments was also listed as "educational research." Why a school which is run as an independent, self-directed study program needed to spend $183,500 on "educational research" is a question which the Staff has been unable to answer.

With respect to the payments made to Mosdos Munkacs, the Staff notes that $23,000 of the $78,000 paid to this entity was wired to an account in B'nei Brak, Israel. The Staff has also discovered three wire transfers made by Bais Fruma in 1992 from a bank account it held with Bank Leumi in New York. These transfers, which totalled $120,800, were wired to an account in the name of Bais Fruma in Tel Aviv, Israel. Again, the Cash Disbursements Journal lists these payments as being for "educational research."

The payments to Congregation Kahal Adas Israel Munkacs, which totalled over $240,000, are listed in the Journal as being for a "training facility." Again, why an independent study school which employs no teachers needs a "training facility" is a question which the Staff is unable to answer.

The payments to Yeshiva Minchas Eluzar are also listed in the Cash Disbursements Journal; however, no explanation is provided as to the purpose of these payments. Rather, the explanation line merely states that the payments are for Minchas Eluzar.

The Journal lists the payments to Yeshiva Tifereth Bunim as being for rental of a library, and the payments to Yeshiva Chaim V'Shulom as being for rental of a property at 1270 52nd Street, Brooklyn. From its inception in 1980 until sometime in 1986, Bais Fruma was located at this address. According to a February 1989 letter by Rabbi Simche Waldman, Bais Fruma's Administrator, the school moved from the 1270 52nd Street address to 4601–4607 14th Avenue, its current location, "in order to secure additional space." The letter states that students and faculty were transferred to the new location.

The photograph (see Appendix F) shows the 1270 52nd Street address today. Nothing on the outside of the building indicates that it has anything to do with Bais Fruma. Indeed, the sign on the outside of the building reads "Talmud Torah Tiferes Bunim, Annex." This building is attached to the building in the second photograph pictured, which also bears a sign reading "Talmud Torah Tiferes Bunim." The address for this second building is 5202 13th Avenue. According to Bais Fruma's financial statements, this is a property for which Bais Fruma pays rent on a library. The amount of rent listed in the financial statement matches exactly the total of the payments to Yeshiva Tifereth Bunim listed in the Cash Disbursements Journal, therefore making it fairly evident that the payments to Yeshiva Tifereth Bunim are for the rental of the library located at 5202 13th Avenue.

As you will notice from the photographs, the sign on each of the buildings contains Hebrew writing above the English name. This writing reads "Talmud Torah Tiferes Bunim D'Munkacs," again indicating that the institutions operating in these buildings are part of the Munkacser movement. From observation of these buildings, it appears that they are a high school. The Staff has been unable to determine why Bais Fruma is paying rent for a building which it acknowledges having moved out of years ago. Nor does the Staff know why Bais Fruma is renting a library from a high school, particularly in light of the fact that Bais Fruma's school Bulletin states that its own facility at 4607 14th Avenue contains "a well-stocked Judaica library." All we do know is that over the past 3 years the payments to Tifereth Bunim and Chaim V'Shulom have totalled over $1 million.

The Cash Disbursements Journal also lists rental payments by Bais Fruma for another property located at 1315 43rd Street in Brooklyn. According to the *Directory of Non-Public Schools and Administrators for New York State, 1991–1992,* published by the University of the State of New York and the New York State Department of Education, an elementary or high school by the name of Yeshiva Tifereth David is located at this address. The Staff notes that the checks written to cover these rental payments were made out to an attorney by the name of Baruch Rabinowitz, not to the yeshiva itself. Perhaps even more intriguing, however, is the fact that the telephone listed at this address is in the name of Bais Fruma Primary School. The relationship, if any, between Baruch Rabinowitz and Rabbi Moshe Rabinowitz, the Munkacser Rebbe, and between Bais Fruma and Bais Fruma Primary School is unknown to the Staff at this point.

The Staff also notes that, as was the case with the two mortgages which Bais Fruma is paying, no written agreements appear to exist with respect to any of these rentals. Again, this raises questions as to whether these are legitimate, arm's-length transactions.

A number of the recipients of large payments from Bais Fruma are either yeshivas or kollels. These types of entities are institutions of religious study. Yeshivas are generally institutions at the elementary or secondary level, while kollels are generally institutions designed to allow young married men to pursue the study of "Torah Lishmah," that is, the study of Torah for its own sake. Because the yeshivas are essentially parochial schools and the kollels are non-degree granting, non-vocational schools, neither of these types of institutions would usually be eligible for direct Federal funding. In light of this fact, and in light of the numerous payments made by Bais Fruma to these institutions, the Staff questions whether Bais Fruma's participation in the Pell Grant program is being used by the Munkacser movement as a vehicle to funnel Federal funds to various religious institutions which otherwise would be ineligible to receive Federal aid. While the Staff currently has no direct proof that such is the case, the blanket invocation of the Fifth Amendment privilege by the administration of Bais Fruma leaves troubling questions such as this unanswered. The Staff would certainly like to hear Bais Fruma's explanations for these payments, as well as for the numerous other questions which we have about its operations.

SARA SCHENIRER TEACHERS SEMINARY

Sara Schenirer Teachers Seminary is a small private non-profit religious educational institution operating in Brooklyn, New York. According to its catalog, the school was created to "offer a challenging program of higher Jewish study that will prepare women to serve as teachers, mothers, and fully realized individuals in the Jewish community." The school's catalog provides an interesting perspective on the type of education the school provides, and why a prospective student would enroll:

> "It is necessary to appreciate the commanding role assigned to Torah study in Orthodox Jewish life to fully appreciate the commitment to education that lies at the heart of Jewish educational institutions. For a large number in the Orthodox Jewish Community, education is not an aesthetic preference or even an economic weapon. It is a religious imperative of overreaching importance. Commanded to follow the Divine Law and to know it, Jews have expended enormous resources on building educational institutions that will assure the integrity of their transmission of Torah knowledge and values. Our school is one of a group of Seminaries whose rationale is founded upon translating this commitment into a curriculum of study for Jewish women who will then put their education to work in adding meaning to their own lives while enriching the families that they raise, and serving as teachers in the expanding network of Jewish schools."

Because it professed to offer postsecondary education in teacher's training, it was determined eligible to participate in Federal student aid programs in 1974.

Based on our investigation, we determined that Sara Schenirer veered from its intended course in the late 1980's, and has become nothing more than a Pell Grant mill, abusing this Federal program and profiting from it. Briefly, our investigation of Sara Schenirer Teachers Seminary revealed:

—An institution which does not meet the eligibility requirements of the Federal law for participation in the Pell grant program. We believe the institution circumvented the gatekeeping process to become eligible, receiving waivers from the State of New York and the U.S. Department of Education.

- The school has not only survived—but profited—as a direct result of the Pell grant program. Over 97 percent of those enrolled obtain Pell grants. There is little or no relation between tuition charged and the costs of the school's operation. There is, however, a direct relation between what the government provides in Pell grants to the school and tuition charged the students.
- Rather than fund quality education, the school has used its Pell generated profits to make large investments. Last year, it transferred over $800,000 to an affiliate, paid off its mortgage, and maintained $1,287,500 in mutual fund investments. These transactions would have been impossible, were it not for the Pell grant program.
- Courses offered do not confer a degree, nor lead to employment in a recognized field, but instead result in a non-vocational certificate in Judaic culture and religious heritage. We seriously question whether the Pell grant program was intended to subsidize these kinds of programs.
- The quality of the education received is doubtful. Several students that were interviewed could not even recall attending the school's classes. Many students attend classes because they are paid to do so. Classes were held in community centers or synagogue basements. Some instructors are part time and also teach at a competitor's school. Books are loaned by the school, and, despite an enrollment of over 1,500 students in 1991, the school spent only $21,000 on educational material and supplies that year.
- We found incomplete, erroneous, or questionable student files and documents. Some data in student files is clearly in error, as it is inconsistent with the information contained in the files of the other schools the students supposedly attended and for which they also received Pell grants. Some students interviewed said they had not attended the school nor received a Pell grant in contrast to school records. Department of Education data reflects some students received Pell grants at several other schools, yet none of the students transferred credits.
- School representatives repeatedly refused to answer questions regarding the school's receipt and use of the Pell grant funds. We repeatedly asked the school for guidance and comment, but all officers, directors, and employees refused to talk with us, and in attempting to depose these witnesses, all invoked their Fifth Amendment right against self-incrimination. Despite their refusal to cooperate with this Subcommittee's oversight efforts, the school continues to draw down Pell grant funds from the Department of Education.

THIS SCHOOL IS NOT AN OPEN BOOK

The Staff's inquiry into the operations of Sara Schenirer Teachers Seminary has been difficult and time consuming. While we have uncovered evidence of what the Staff considers abuse of the Federal Pell grant program at Sara Schenirer, we have, to date, been unable to determine all of the facts concerning the school's participation in the Federal program.

The Subcommittee's demand for document production, made via subpoena served in February 1993, has been met with obfuscation and repeated delays in production. The records we have received have been incomplete, inhibiting our ability to understand and evaluate the school's operations.

This problem was compounded by the fact that no one at the school will consent to be interviewed by the Subcommittee Staff. As a result, the Subcommittee issued deposition notices and appearance subpoenas to Mr. Michoel J. Meisels, the President and Dean, and to Mrs. Toby Broyde, the Director of Student Financial Aid. Counsel for both Meisels and Broyde advised that the witnesses would decline to testify, citing their Fifth Amendment privilege protecting them from self-incrimination.

Counsel for the school also advised the Staff that his recommendation to any other employees of the school, which the Subcommittee may subpoena for testimony, would be that the employee not answer any of the Subcommittee's questions and invoke the constitutional privilege. So, the Staff has had to almost exclusively rely on document review and interviews of students to learn anything about the operations of this school.

Attempts to obtain information from the school's Board of directors resulted in the same response: Mr. Yitzchak Eichenthal, a CPA and Member of the Board, advised the Subcommittee, through counsel, that he would decline to answer any and all questions put before him and assert his Fifth Amendment protection. Mr. Elyasaf Slanger, the current Chairman of the Board, and Mr. Samuel B. Treas, the former

Chairman of the Board, both advised they, too, would assert their Right not to incriminate themselves if called to testify. No one at this school would cooperate with the Congress in its examination of their receipt of over $11 million in Federal funds.

Mr. Chairman, the Staff recognizes and respects an individual's constitutional privilege against self-incrimination. The Constitution, however, does not guarantee individuals the right to continue to receive Federal funds when they refuse to account for their use of those funds to Federal authorities, whether it be an Executive Branch agency or, as in this case, a Congressional investigating committee.

RESULTS OF INVESTIGATION

Last year, Sara Schenirer enrolled over 2,000 persons in "certificate" programs which are not vocational in nature and are not designed to lead to employment of any kind. The school's "student body" is mostly comprised of elderly Russian immigrants who are paid to attend classes in basic English and Jewish cultural and religious studies. Ninety-nine percent (99 percent) of those enrolled received Pell Grants. Since 1981, the school has received almost $11 million in Federal Pell grant funds.

In fact, in just the last 2 years, the Federal Government has spent $8 million so that 3,600 immigrants could attend Sara Schenirer's classes in Jewish history in the basements of synagogues and community centers in Brooklyn and the Bronx. All of the immigrants are poor, and many are elderly—in their 70's and 80's. Many of the "students" that we were able to locate and interview admitted that they attend the classes because they are financially dependent on the several hundred dollars they receive from the school each semester to attend class.

Last year, this non-profit, tax exempt school reported a net worth in excess of $2 million. It had investments totalling $1.2 million, and spun-off, at a cost of over $800,000, a new tax-exempt organization, Seminar Yerushalayim American Assembly. Sara Schenirer's revenue for the fiscal year ending June 1992 was $3.2 million, almost all of which was Federal Pell grant funds. Its administrators, a husband and wife team, took over $112,200 in cash compensation for the 1991–1992 school year.

We discovered that while its enrollment and Pell grant receipts mushroomed, expenses for educational materials and supplies decreased dramatically. In 1989, the school's gross revenue was $834,566, and it spent $127,177 on educational materials and supplies, and $310,279 on salaries and benefits. But, in 1992, when gross revenue reached $3,256,618, most of which resulted from Pell grant funds, the school spent a paultry $60,188 on educational materials and $819,432 on salaries and benefits.

Records indicate that the school did not start out this way. In its earlier years, Sara Schenirer Teachers Seminary was a small program of the larger Beis Sefer Govoha Lebanos, which included a congregation, a high school and a seminary for Jewish women.

For reasons that remain unclear, but we suspect are purely financial, Sara Schenirer Teachers Seminary has become involved in what appears to be a mushrooming industry in the New York area: "educating" the Russian immigrant population. As the General Accounting Office will detail later this morning, several schools have created dubious programs apparently geared to tuition aid programs available from both State and Federal sources. Because many of the Russian-Jewish immigrants in the New York City area are aged, poor, and unemployed, they are eligible for Federal student financial aid if they attend an eligible institution. Sara Schenirer Teachers Seminary, determined eligible to participate in Federal student aid programs by the Department of Education, vastly expanded itself in 1988 to take advantage of the financial windfall offered by the influx of Russian immigrants.

We reviewed Department of Education Pell grant databases, and learned that the school's enrollment skyrocketed in the last couple of years, from 51 students receiving Pell grants in the 1988–89 school year, to 2,102 in the 1992–93 school year. The growth is depicted in the following chart: (See also Appendix G.)

SARA SCHENIRER TEACHERS SEMINARY

Year	Pell Grant authorization	Pell Grant recipients
1980–1981	$ 62,794	48
1981–1982	53,778	39
1982–1983	60,031	39
1983–1984	78,188	54
1984–1985	82,068	54
1985–1986	78,898	48
1986–1987	53,300	36

SARA SCHENIRER TEACHERS SEMINARY—Continued

Year	Pell Grant authorization	Pell Grant recipients
1987–1988	63,420	38
1988–1989	105,550	51
1989–1990	736,093	394
1990–1991	1,446,145	687
1991–1992	3,193,538	1,507
1992–1993	$4,912,321	2,102
TOTAL	$10,926,114	5,097

Like too many schools operating in the Federal student aid programs, Sara Schenirer Teachers Seminary is not successful because of its ability to thrive in a free-market. It is profitable because of the Federal Pell Grant Program. Would 5,000 students have attended this institution if they had to pay the tuition charged by Sara Schenirer? The answer is evident after reviewing the facts: The vast majority of the student body paid nothing, but instead were paid to attend class. Many people in New York's Russian community told the Staff that the people enrolled in these programs do so because of the payments they receive to attend classes. None of the students interviewed would be willing to pay to attend the classes, and several said they would not bother enrolling if they were not paid to attend. Moreover, some of the students interviewed could not even remember attending this school or similar schools where, according to Department of Education records, they also received Federal Pell grant funds.

For the year ended June 30, 1992, Sara Schenirer reported $3,173,655 in tuition and dormitory fee revenue (Note: the dormitory is used for "seminary" students, and not for immigrant culture program students, the great majority of the "student body"). As you will note in the above chart, for the 1991–1992 school year, 1,507 students accounted for $3,193,538—$19,883 more—paid in Pell Grants to Sara Schenirer. (According to the school's calculations, 1,497—or all but 10 of the Pell recipients were enrolled in the Immigrant Culture Program.) The school charges tuition that is $25 per semester less than the Pell grant award, and refunds the balance to the student. Students enrolled in the Immigrant Culture Program also received $200 payments to attend classes. That year, the school spent $392,225 for these stipends, or "scholarships," and managed to pay off its $650,000 mortgage.

Aside from its $3,173,655 in tuition revenue, the school received income as follows:

ADDITONAL INCOME

	Expenses
Contributions	$43,446
Investments	$33,785
Administrative (from Department of Education)	$ 5,732

After all expenses, Sara Schenirer Teachers Seminary reported $1,365,215 in excess revenue for 1991–1992 school year.

Tuition "charged" is $1,175 per semester, $25 less than the $1,200 maximum Pell Grant award per semester. The tuition fee to attend this federally tax exempt school has very little to do with what it costs to educate, but has everything to do with the Federal student grant programs that its students are qualified to participate in. The cost to the school for operating the immigrant culture program is small in comparison to what the Federal taxpayer gives to the school to run the program (see Appendix H). According to its financial statements, the school spent only $60,188 in 1992, and a mere $21,324 in 1991, for educational materials and supplies. According to students we interviewed, the school loans textbooks to students and conducts classes in the basements of local synagogues and community centers.

Sara Schenirer is truly a government sponsored enterprise with its profitable existence due to the funds made available by the Federal taxpayer, for programs of dubious worth.

PARTICIPATION IN FEDERAL PELL GRANT PROGRAM

The Staff reviewed the school's participation in the Federal student aid programs. The school initially applied for participation in 1974.

Generally, a school must meet certain criteria to be determined eligible to participate in Federal student aid programs. A school must be:

1. Licensed in the State in which it is located;

2. Accredited by an agency recognized by the Secretary of Education; and
3. Certified (financially) by the Department of Education and determined eligible to participate by the Department.

As the Subcommittee will recall from our 1990 investigation of the Federal student aid programs, we found this gatekeeping process to be ineffective and almost meaningless. During this review we also found this to be true in the case of Sara Schenirer Teachers Seminary. Based on our review of this school's participation in the program, we made the following observations:

First, the requirement for State licensing, and the oversight provided by such a process, was waived by the Department. Sara Schenirer is a religious institution not regulated by the State of New York's Department of Education because the school is not recognized by the State as a degree-granting institution, and because of its wholly religious status, the State refused to license it. In May 1985, the New York State Education Department, solely for the purpose of the school's application to continue participation in the Federal student aid programs, authorized Sara Schenirer to provide programs beyond secondary education, without being required to possess any credential or approval from the Department. Previously, however, according to U.S. Department of Education employees we interviewed, the U.S. Department of Education had exempted Sara Schenirer from the State licensing requirement, based on a 1967 decision to allow rabbinical seminaries to participate in the programs. One gate open.

Second, when it applied for recognition in 1974, Sara Schenirer was not accredited. Instead, it certified that at least three accredited institutions accepted its students—and academic credits earned at Sara Schenirer—as transfer students. This is known as the "3IC" method of eligibility.

Until 1992, when the Higher Education Act was reauthorized and amended, unaccredited schools could apply for recognition and participation in Federal student aid programs by certifying and giving evidence, that at least three other accredited institutions would accept the credits offered by the school making application. Sara Schenirer, in its February 1974 application, listed:

New School for Social Research
Bank Street College of Education, and
Long Island University

as accepting Sara Schenirer students, and the credits they earned at Sara Schenirer.

In April, 1974, Sara Schenirer offered three more schools for the transfer of credit:

Hofstra University
Brooklyn College
Touro College

Apparently, these certifications were accepted in lieu of accreditation. The second gate was open.

Finally, a school must be financially responsible and satisfy eligibility requirements to qualify for participation in these Federal student aid programs. This determination is made by the staff of the Department of Education's Washington, D.C. office. In the case of Sara Schenirer, we were unable to review the Department's financial Certification file for the school, because it is missing from the Department's files. Repeated attempts by the Department to locate the file were fruitless.

To satisfy eligibility requirements, the school must be an institution of higher education as defined by the Higher Education Act. Accordingly, it must:

Be an educational institution, and

(1) admit as regular students only persons who have a certificate of graduation from a secondary school, or the recognized equivalent of such a certificate (or if a public or nonprofit private school, admit as regular students persons who are beyond the age of compulsory school attendance in the State in which the school is located), and

(2) be legally authorized within the State to provide a program of education beyond secondary education, and

(3) provide an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit towards a degree, and

(4) is a public or other nonprofit institution, and

(5) is accredited by a recognized agency.

OR

be a school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of 1, 2, 4, and 5 above.

We are unable to determine how Sara Schenirer Teachers Seminary was deemed eligible under the law, because it was not licensed, or recognized by the State of New York, did not confer degrees, and its courses were not designed to prepare students for gainful employment in a recognized occupation. We interviewed current Department employees and showed them the school's course catalog, which states:

> "The mission of Sara Schenirer Teachers Seminary is to offer a challenging program of higher Jewish study that will prepare women to serve as teachers, mothers, and fully realized individuals in the Jewish community."

The Department's eligibility staff told us that because some of the graduates may later become teachers in Jewish elementary or secondary schools, or even teacher's aides, the school was eligible, despite the fact that the school was not licensed by the State of New York.

The catalog also contains a specific "Disclaimer of Placement":

> "Sara Schenirer Teachers Seminary provides no guarantees of employment or placement, implied or otherwise, to students who complete its certificate or diploma programs. Students interested in academic related employment are advised to contact Torah U'Mesorah national Hebrew Day School Society."

The employees stated that the law was vague and inclusive, not exclusive. They reasoned that, because the eligibility decision was made long ago by people who no longer worked at the Department, it would be impossible to determine the school ineligible today.

It is clear however, after reviewing the Department of Education's eligibility file for this school, that the Department did not initially believe the school met the standards proscribed by law.

In August 1974, the Department sent a letter to Sara Schenirer, advising the school that it was not eligible to participate in the Federal programs, because:

> "(1) the school is a teacher preparatory institution and hence it cannot qualify as a rabbinical school with a religious charter; and (2) the school is not officially recognized as a teacher training institution by the New York Board of Regents."

But, just a few months later, the Department changed its mind. In the Eligibility file at the Department of Education is an unsigned copy of a memorandum, dated December 24, 1974, which certifies:

> "that the U.S. Commissioner of Education has determined that the Sara Schenirer Teachers Seminary, Brooklyn, New York has met the definition of an eligible institution established for the following programs and is eligible to apply:
> —Educational Opportunity Grants (Basic and Supplemental—Undergraduate Only)
> —Insured Loans to Students in Institutions of Higher Education
> —College Work-Study
> —National Direct Student Loans"

The document reflects that the school is a private 4 year institution which is eligible because of "acceptance of credits upon transfer by three accredited institutions." There is nothing in the Department's file to indicate any change in the school's circumstances since the original denial of eligibility.

The file also contains copies of letters, each sent on January 14, 1975, to:

Congressman Herman Badillo
Congressman Albert Quie
Congressman James Scheuer
Senator Jacob Javits
Congressman John Wydler

notifying these elected representatives that the Department had decided that Sara Schenirer Teachers Seminary was eligible to participate in Federal student aid programs. The letters were sent following a meeting between the Members and the Department. We do not know what was said during the meeting; however, the Department apparently evaluated the programs and made a determination that "these teacher training seminaries are comparable to similarly accredited baccalaureate degree granting institutions in the United States." We note, however, that Sara Schenirer does not confer degrees. The third and final gate was opened.

The Department's records also indicate that the school failed to renew its "3IC" status in September 1978, and its participation was terminated until November 1978, when it regained its eligibility after making the required certifications. In 1982, the Department again renewed the school's eligibility.

For some unknown reason, the school's participation in these programs caused a review by the Inspector General. On January 28, 1986, the Department's New York Regional Inspector General for Audit issued a report of a review which was conducted to determine if a proper determination of eligibility had been made concerning Sara Schenirer in 1982.

The Department had renewed Sara Schenirer's eligibility to participate in the Pell grant program in 1982, based on the application Sara Schenirer had submitted.

The Inspector General found that the Department of Education had improperly determined Sara Schenirer to be eligible for participation, and recommended that if the school could not retroactively establish eligibility, the school should have to reimburse the Department for the estimated $290,000 in Pell grant awards obtained during the period, July 1, 1982—June 30, 1985. The Inspector General based this determination on evidence that Sara Schenirer's certifications on the transfer of credits for its students to accredited institutions were in error and invalid. In 1987, the Department imposed a liability of $293,174 on Sara Schenirer because the institution was ineligible for participation in the Federal student aid programs. Sara Schenirer appealed this decision, and the Administrative Law Judge found in the school's favor: the 3IC method was confusing. The Department of Education attempted to appeal the Law Judge's finding, but made its appeal in an untimely manner, and the Secretary of Education refused to consider the Department's appeal.

On December 3, 1988, the Accrediting Council for Continuing Education and Training (ACCET), of Richmond, Virginia, accredited Sara Schenirer Teachers Seminary, ending the 3IC debate for the school.

Sara Schenirer was also determined liable to the Department for the school's failure to file audits of its administration of Federal program funds from 1984–1988. The Department settled with the school after the school was fined $10,000.

In a 1992 audit of the school's participation of the Federal Student Aid Programs, an independent auditor noted that:

> "A break-in at the institution's facilities occurred earlier this year in which certain institutional records were damaged or stolen. As a result of this, we were provided with certain reconstructed records and certain certified statements from former students attesting to the validity of various information and documentation. The missing information included, but is not limited to SAR's, student acknowledgments, verification material, original student applications for admissions and need analysis . . ."

PROGRAMS AND COURSES OFFERED

According to its course catalog, Sara Schenirer Seminary operates the following programs:

—Judaic Studies Certificate Program at 64 semester hours;
—Judaic Culture Certificate Program at 64 semester hours; and
—Judaic Culture Diploma Program at 56 semester hours.

In addition, the school has operated a "special education" program and a foreign branch in Israel, Seminar Yerushalayim, a full day Seminary for female American students.

As is evidenced by the volume of Pell grants, the Seminary's enrollment started to build in 1988, and then grew dramatically. Based on our review of the school's documents, produced under Subcommittee subpoena, we believe most of this growth can be attributed to just this one program, the Immigrant Culture Program, which offers the Judaic Culture Certificate and Diploma programs listed above.

According to the school's catalog and filings made with its accrediting body, the Accrediting Council for Continuing Education and Training (ACCET), the Immigrant Culture Program is designed to educate recent immigrants:

> "The American scene was, in recent years, suddenly faced with the arrival of an influx of immigrants from such countries, as Russia and Iran, where individuals of Jewish faith have not had the opportunity to study and practice their rich heritage and culture. As they arrive on the free shores of the United States, their interest to learn about the history, culture, and intellectual underpinnings of their religious heritage is suddenly awakened.
>
> "Sara Schenirer Teachers Seminary, in response to this need, has created the Immigrant Culture Program, the purpose of which is to fill this burning intellectual and spiritual need, through a program of academics designed to mold the student culturally and acclimate him to the American/Jewish scene."

While the Staff certainly acknowledges a person's right and choice to study his or her religious heritage, we strongly question whether these types of non-vocational, non-degree granting programs satisfy the intent or policy goals underlying the Federal Pell Grant program.

The Immigrant Culture Program—Sara Schenirer's largest program—is clearly not a vocational training program, and the catalog contains a specific disclaimer of placement.

For the Judaic Culture Certificate Program, the following courses are offered:

JUDAIC CULTURE CERTIFICATE PROGRAM

Course	Credit hours
Jewish Life Cycle 111A	3
Jewish Life Cycle 121A	3
The Jewish Calendar 131	3
Jewish Personalities 161	3
Jewish Personalities 221	3
Current Events 181	1
Current Events 191	1
The Sabbath 115	3
The Holiday I 245	2
The Holiday II 311	2
Parshat Hashavua I	3
Parshat Hashavua II	3
Parshat Hashavua III	3
Parshat Hashavua IV	3
Jewish Philosophy 111A	3
Jewish Philosophy 121	3
Rationale of Jewish Philosophy 211A	3
Overview of Jewish History 111A	3
American Jewish History 311	3
The Jew in Russia 421A	3
Hebrew Reading & Writing I	3
Hebrew Reading & Writing II	3
Hebrew Language 221	3
Introductory English Skills I	6
Introductory English Skills II	6
Intermediate Reading & Writing I	3
Intermediate Reading & Writing II	3
Conversational English	1
Intermediate Composition	3
Civics I	3
Civics II	3

We note that, in and of themselves, there is nothing wrong about these individual classes: many mainstream colleges and universities offer classes in English, foreign languages, and religious studies. We question the fact that the Federal Government paid Sara Schenirer millions of dollars in the last 2 years to put this program on; a program which pays its students to attend its classes, and which, for those who complete it, results in a certificate that has no recognition or marketability.

We asked the staff of the U.S. Department of Education how this program could be eligible for Federal student financial aid, since its completion did not result in a degree and since the training it offered was not for a recognized vocation. According to the Department's employees, a key weakness of the Federal program can be found in the implementing legislation—the Higher Education Act. The Department of Education recognizes institutions, not programs. Therefore, once an institution is determined eligible on the basis of one set of educational programs, it may create new programs for which students may receive Federal aid. As we found in the case of Sara Schenirer, these new programs may not lead to a degree or employment in a recognized vocation. The Federal Government, it turns out, relies on the school, the States, and the accreditors to determine the value of the added programs at participating schools.

EXPLOITING THE POOR IMMIGRANT AND THE TAXPAYER

According to its catalog, Sara Schenirer's immigrant culture program "teaches a wide spectrum of Judaic studies covering the pertinent areas of Jewish history, law, bible, and philosophy . . ." coupled with English and Hebrew language lessons. By offering English language lessons to Russian immigrants in the Bronx, the school came to the attention of Don Bluestone, the director of a community center there.

The Staff interviewed Mr. Bluestone, who subsequently provided the Subcommittee with an affidavit. Mr. Bluestone, who is the executive director of the Mosholu-Montefiore Community Center in the Bronx testified that some of the services offered at his community center are specifically designed to help recent immigrants in getting settled in the United States. His center's Russian Jewish Settlement and

Outreach Center provides help with apartments, jobs, social clubs, child care, and training. The center offers free classes in basic English language to the immigrants.

Bluestone said that, in 1991, his center was providing free English classes to approximately 100 Russian immigrants. He used volunteer instructors to teach basic survival English to the Russians, because there was, and is, a real need for it in the community. At that time, Bluestone spread the word that he needed more volunteer English teachers. Bluestone said that Sara Schenirer, a school in Brooklyn, responded to the call.

Bluestone said that an employee of Sara Schenirer called him and told him that Sara Schenirer would teach English to the immigrants, and, using government student aid, provide the students with a "stipend"—a cash payment of $400 per year to each student, to attend. There would be no cost for the student or the Center, and no cost for Sara Schenirer to use the Center's facilities.

In fact, Sara Schenirer would be receiving Federal Pell grant funds for this service. The Federal Government would now be paying $1,200 per student, per semester, for the same course previously provided at no cost by the Center—on a volunteer basis—to these students. Of that amount, $200 was paid directly to each student per semester to attend.

In the Fall of 1991, Bluestone said, Sara Schenirer enrolled hundreds of Russian immigrants in English classes at the community center. Employees assisted the immigrants, many of whom were elderly and not very well educated, in filling out forms, including Federal Pell grant applications provided by representatives of Sara Schenirer. The students were happy with the instruction and very happy that they were being paid to attend classes. Bluestone said, however, that things changed. He began hearing, through his employees, that some of the immigrants were confused. Upon inquiry, Bluestone said that he learned that Sara Schenirer was teaching not only English, but Hebrew as well. He wondered how elderly Russian were supposed to learn two very distinct and complex languages at the same time. His concern grew into alarm when he was told that the students were not only being taught about Judaic history, but were also being forced to convert to Orthodox Judaism. Bluestone said he raised his concerns with the instructors, and things appeared to return "to normal." Bluestone said the semester ended, in the Summer of 1992, without incident.

In the Fall of 1992, Bluestone began to wonder why Sara Schenirer had not returned to offer the English classes. He learned that the school had moved its English and Judaic studies programs to a synagogue, and then later to another community center in the Bronx. Bluestone told the Staff that he thinks that Sara Schenirer is exploiting the Russian immigrant population by using Federal Pell grants to pay the immigrants to attend its classes.

The Staff has learned that Sara Schenirer's practice of paying students to attend classes is not unique, and may be a growing phenomena in the New York area. The General Accounting Office, using the Pell grant data for 37 Judaic Studies schools in the New York area, found over 140 students who had received Pell grants from four or more schools from 1987–1992. The Staff considers this rather odd, because, as best as we are able to determine, these schools offer basically the same type of programs and classes: English as a second language and Judaic history. For the same period, 1335 students had attended three or more schools. The data appears to disclose that the practice is not limited to recent Russian immigrants, since for some of the schools, the student base appears to be made up of members of the local ultra orthodox Jewish community.

We also note, as we will detail below, that our interviews of some of these students disclosed inconsistencies between their academic and financial aid files at these different institutions. Moreover, some of these students told us they had never heard of, nor attended, some of the schools for which, according to the Department of Education records, the schools received Pell grant funds in their names.

We interviewed several former students of Sara Schenirer Teachers Seminary who confirmed that they had paid no tuition to attend the school, but had received payments to attend classes. Several students stated that they needed the payments to survive financially, and some indicated they would not attend the classes if they were not paid to do so. This practice seems to guarantee not only attendance, but students who return for another semester. And who wouldn't?

A review of the Department of Education's computer files by GAO revealed the following students of Sara Schenirer Teachers Seminary who attended at least three other schools since 1988:

Ms. SOFYA FISHLER is an American citizen who resides in Brooklyn. According to the U.S. Department of Education's databases, Sara Schenirer Teachers Seminary (1992), Molloy College (1991, 1992), Derech Ayson Rabbinical Seminary (1989), and Touro College (1988) all obtained Pell grants for Ms. Fishler's attendance at their schools. Ms. Fishler, when interviewed by Staff, said she had gone to Sara Schenirer to take Jewish culture, history and English language classes. Ms. Fishler, who speaks very poor English, said that she had never gone to any other schools, and had never heard of Molloy College, Derech Ayson Rabbinical Seminary or Touro College. The Staff reviewed Sara Schenirer's files as they pertain to Ms. Fishler and found the following:

> Ms. Fishler applied for admission into Sara Schenirer on August 28, 1991. She lists her date of birth as August 20, 1925, and having graduated from "No. 23 Moskow" High School in 1943. The entry forms indicate Ms. Fishler's "Knowledge of English" as "average." Under the item "list all colleges or institutions of higher learning you have attended" the typed entry is "NONE." On September 4, 1991 the files indicate Ms. Fishler enrolled in 12 semester hours at a cost of $1,175 to take three classes: Parshat Hahavua I, Jewish Life Cycle I, and Introductory English Skills I. Her Fall 1991 Student Grade Card indicates Ms. Fishler received an A in each of the first two classes, and a B in English Skills I, for a GPA of 3.5 for the term. Ms. Fishler enrolled in the Spring 1992 term and took Parshat Hashavua II, Jewish Life Cycle II, and Introductory English Skills II, and recieved an A, B, and A respectively. The school received $2,400 in Pell awards for Ms. Fishler and paid her $150 per semester, or $300 in what they termed an "institutional scholarship."

The Staff also reviewed Ms. Fishler's Molloy College files. According to the files, Ms. Fishler was admitted to Molloy in September 1989 and withdrew on September 3, 1991, (the day before enrolling at Sara Schenirer) after receiving a cumulative GPA of 3.66 and completing all 48 semester hours attempted. According to their files, Ms. Fishler successfully completed:

Voice and Diction
Grammar Review I
Oral Production I
The Old Testament
Experience in Communication
Grammar Review II
Oral Production II
Judaism [sic]
Composition I
Reading Study Skills I
Achieving Musical Insight
American national Government
Effective Business Writing
Short Story
American Civilization I
The Family

She received 10 A's, four B's, and one C+, at a school she said she has never heard of.

At Molloy, the form lists her having graduated from "No. 5" High School in Moailev Podolsk in June 1943. Perhaps she was confused about the question.

At both Sara Schenirer and Molloy College, all of the course catalogs, enrollment forms and complex Pell award summary documents are in English. Despite the many studies listed at both Sara Schenirer and Molloy College, Ms. Fishler has an extremely hard time communicating in the English language. As the Staff will detail later, students attending Molloy College not only participated in the Pell grant program, but also the New York State Tuition Assistance Program, which gives even larger grants to students.

Mrs. IDA GOLDBERG is a resident alien who resides in Brooklyn with her husband ISAAK GOLDBERG. According to the U.S. Department of Education's databases, Touro College (1992), Sara Schenirer Teachers Seminary (1992), Molloy College (1990, 1991), Bramson ORT (1990), and the Academy for Jewish Education (1989) all obtained Pell grants for both IDA and ISAAK's attendance at their schools. Mrs. GOLDBERG could not communicate without the assistance of a translator. She was interviewed by the Staff and GAO. Mr. Goldberg was interviewed by GAO. Both stated that they had gone to Sara Schenirer for two semesters and at Bramson ORT for 4 months, but they had dropped out because they did not like Bramson ORT. Mrs. Goldberg stated she had taken an entrance examination at Touro college, but did not enroll or attend classes there. Both said they had never heard of either Molloy College or the Academy for Jewish Education. Mrs. Goldberg stated that she attended classes for Sara Schenirer in the basement of a local building, and that tuition was free and she was paid $200 per semester to attend.

A review of IDA GOLDBERG's files at Sara Schenirer disclosed that Mrs. Goldberg was born in 1924, and graduated from "No. 3 Kremenchug" High School in 1938. She enrolled at Sara Schenirer on August 27, 1991, and under the entry "List all colleges or institutions of higher learning you have attended" there is the typed entry "NONE." Mrs. Goldberg attended two semesters and took the following classes, receiving the grades as indicated:

Parshat Hashavua I	B
Jewish Life Cycle I	A
Introductory English Skills I	A
Parshat Hashavua II	A
Jewish Life Cycle II	B
Introductory English Skills II	B

Mrs. Goldberg, who cannot understand English, received 24 semester hours credits and earned a cumulative GPA of 3.5 at this accredited institution.

Sara Schenirer paid Mrs. Goldberg $150 per semester, according to its files (Mrs. Goldberg said the school paid her $200), and received $2,400 in Pell to cover the $2,350 tuition.

According to files at the Academy for Jewish Education, Mrs. Goldberg enrolled in the 1988 Fall semester for classes in:

Genesis
Beginning Language Skills
Beginner's Composition Skills
Survey of Jewish History

$1,200 in tuition was charged and $1,100 in Pell disbursed to cover the classes. The school's files reflect a $100 scholarship being disbursed to cover the remaining tuition. Mrs. Goldberg withdrew from the courses, according to the file, and received no grades. Mrs. Goldberg's files at this school reflect that she graduated from "No. 3 Premichok" in the Ukraine, in 1942.

According to the files at Molloy College, Mrs. Goldberg attended classes there in the Fall of 1989, the Spring and Fall of 1990, and the Spring of 1991. According to their files, she graduated from Kremenchug High School in 1942, and never attended any other schools after that. She is listed as having attended the following classes at Molloy, receiving the grades indicated:

Voice and Diction	B+
Grammar Review I	A
Oral Production I	A
The Old Testament	B
Experience in Communication	B+
Grammar Review II	A
Oral Production II	A
Judaim	C+
Composition I	B
Reading Study Skills	B+
Achieving Musical Insight	B
American national Government	B
Effective Business Writing	A
Short Story	B+
American Civilization I	B
The Family	B

Mrs. Goldberg earned a cumulative GPA at Molloy College of 3.41 and 48 semester hour credits towards her Associates Degree. All at a school she cannot remember attending.

Mrs. Goldberg's husband, ISAAK GOLDBERG, was born in 1920 in the Ukraine. As previously noted, Mr. Goldberg was interviewed by the GAO, with the aid of an interpreter. Mr. Goldberg told the GAO that he had only attended Sara Schenirer Teachers Seminary's English and Jewish History classes, and 4 months of classes at Bramson ORT, and like his wife, denied ever attending any other schools in the United States, even though other schools have received Pell grant monies in his name. According to the Pell grant database, Mr. Goldberg has attended Touro College (1992), Sara Schenirer (1992), Molloy College (1990 and 1991), Bramson ORT (1990), and the Academy for Jewish Education (1989).

Mr. Goldberg's files at Sara Schenirer disclosed that he enrolled in Sara Schenirer's Immigrant Culture Program in the Fall of 1991 and the Spring of 1992. The files indicated that Mr. Goldberg had graduated from high school No. 3 in Kremenchug in 1934. Mr. Goldberg took the following classes, receiving the grades as indicated:

Parshat Hashavua I	C
Jewish Life Cycle I	C

Introductory English Skills I	B
Parshat Hashavua II	B
Jewish Life Cycle II	C
Introductory English Skills II	B

Sara Schenirer received $2,400 in Pell grant funds on Mr. Goldberg's behalf, and applied it to the $2,350 tuition. It also gave Mr. Goldberg an "institutional scholarship" of $300 for the year.

Mr. Goldberg's files at the Academy for Jewish Education list his high school as No. 3 Premichok Ukraine with a date of graduation in 1938, 4 years later, and at a different school than the Sara Schenirer files indicate. The Academy's files indicate Mr. Goldberg was enrolled for the Spring 1989 semester, with a tuition charge of $1,200. The Academy indicates a $1,100 Pell grant received and a $100 scholarship being awarded, but the academic files reveal that Mr. Goldberg withdrew from the four classes he had enrolled in.

Mr. Goldberg's files at Molloy College indicate he graduated from high school in Kremenchug in 1938. The files indicate he enrolled on a full time basis at Molloy in the Fall 1989 semester, and that he had never attended any other school after high school, and he had never received Federal student grants before. He applied for a Pell grant and State tuition assistance grants.

According to the files at Molloy College, Mr. Goldberg attended the following classes from the Fall of 1989 through the Spring of 1991, and received the grades as indicated:

Voice and Diction	A
Grammar Review I	A
Oral Production I	A
The Old Testament	A
Experience in Communication	B+
Grammar Review II	B+
Oral Production II	B+
Judaism [sic]	B
Composition I	B
Reading Study Skills I	B
Achieving Musical Insight	B
American national Government	B
Effective Business Writing	B+
Short Story	B+
American Civilization I	A
The Family	A

Mr. Goldberg earned 48 Semester hours, with a cumulative GPA of 3.53 at a school he said he never attended.

Mr. BORIS KRATMAN of Brooklyn, New York, was born in 1921, and is also among the many students, that according to the Department of Education's Pell grant database, also attended several postsecondary schools where Pell grants were used to pay his tuition. According to the database, Mr. Kratman attended the Academy for Social Action (1988), Bramson ORT (1990 and 1991), Sara Schenirer (1991) and Derech Ayson Rabbinical Seminary (1992).The GAO interviewed Mr. Kratman with the assistance of a Russian translator. Mr. Kratman told the GAO that he had attended English classes in a local synagogue and at a building on Brighton 4th Street, but he denied having ever enrolled in any school, or applying for any tuition assistance. All he knew was that he went to English classes from the Fall of 1991 to the Spring of 1992, and was paid $200 to attend the classes. Mr. Kratman said he stopped going to classes because he is ill and has to go on kidney dialysis twice a week. Mr. Kratman provided an affidavit wherein he testifies that he has never heard of any of the above listed schools.

A review of Mr. Kratman's files at Sara Schenirer Teachers Seminary disclosed that someone enrolled him there for the Spring 1991 semester at a cost of $1,150. His grade report for that semester lists three courses that Mr. Kratman successfully completed:

Introductory English Skills I	A
Parshat Hashavua II	B
Jewish Life Cycle I	B

Despite the fact that on his application for admission, Sara Schenirer's records reflect that Mr. Kratman had not attended any other schools after graduating from No. 1 Kakan high school in 1938, Sara Schenirer's files contain a financial aid transcript from Bramson ORT Technical Institute, which indicates Mr. Kratman received Pell grants in the 1990–1991 and 1989–1990 award years.

FOLLOW THE STIPEND

The Staff did interview two students of Sara Schenirer who stated they had attended the school. One even knew that the Federal Government had paid his tuition. What remains unexplained is why or how students appear to attend so many different schools to learn the same subjects.

The Staff feel that the Pell grant program contains a systemic weakness that awards this bizarre practice: there is no limit to the number of years for which a student may receive a Pell grant. That is, as long as a student never receives an undergraduate degree, has a financial need, and attends approved institutions, the student may receive Pell grants forever. The government assumes students want to graduate. We do not assume a student would go from school to school, taking the same courses over and over again.

That alone, however, does not explain how these students knew to bounce from school to school. We did not know if these schools were collaborating, shifting their students from school to school, or if the students somehow shopped from school to school for the one that would pay the largest stipend. The General Accounting Office learned, however, that some of the schools used Pell grant brokers to enroll students, and we were told that these independent salesmen would broker student biographical enrollment information to the highest bidding school.

PROFITS FOR THE NON-PROFIT

We reviewed the work papers of Sara Schenirer Teacher Seminary's certified public accountant. The school had not had audits performed, but merely compilations or reviews of its financial data. Accordingly, the CPA could not express an opinion or any other form of assurance on the figures presented. We attempted to interview the person responsible for presenting the calculations, Mrs. Tobi Broyde, but she declined the interview and refused to answer any questions in deposition, citing her Fifth Amendment protection against self-incrimination on the advice of counsel. A copy of the financial statements are exhibits.

Another CPA, Mr. Samuel Kohn, received over $17,000, during the 1991–1992 school year, in fees to produce an audit of Sara Schenirer's handling of the Federal Pell grant funds. Mr. Kohn's workpapers were subpoenaed by the Subcommittee, and were to be produced no later than September 20, 1993, but, despite repeated requests, he has produced nothing. [Subsequent to the drafting of this Staff Statement, Mr. Kohn provided the workpapers to the Subcommittee.] A copy of two of Mr. Kohn's audits are exhibits.

Because of its Immigrant Culture Program and the Federal Pell Grant Program, Sara Schenirer Teachers Seminary has grown rapidly since the late 1980's, paid off its $650,000 mortgage, purchased property in Israel, spun-off the Jerusalem operation at a cost to Sara Schenirer of over $800,000, and amassed millions of dollars in profits. Aside from its real estate, the school invests in mutual funds.

The school paid one consultant, Yehuda (Eugene) Lowinger, who is the Administrator at a competing school, Derech Ayson Seminary, over $280,000 to develop a computer system for Sara Schenirer. In an interview with Staff, Lowinger stated he made recommendations regarding the purchase of computer hardware and software to the school, and wrote computer programs for the school. Lowinger told the Staff that he could not understand why the community was unwilling to speak with the Staff. He said he had nothing to hide, but then declined to answer questions about Derech Ayson Seminary. Lowinger, in response to the Subcommittee deposition notice and subpoena, advised the Subcommittee through counsel that he would refuse to answer questions and assert his Fifth Amendment protection against self-incrimination.

Mr. Chairman, we realize that many questions pertaining to Sara Schenirer's participation in the Federal student aid programs remain unanswered. Given the wholesale lack of cooperation by the school during this inquiry, the Staff recommends the Department of Education permanently bar the school from participation in the Pell Grant Program and refer the matter to the Inspector General, the FBI and the IRS for further investigation.

MOLLOY COLLEGE

As part of the Staff's review of the Pell Grant program, we examined the rapid growth in recent years of Pell grant funding at Molloy College, a private, non-profit college in New York State. Molloy was founded in 1955 as Molloy Catholic College for Women and is located in Rockville Centre, Long Island, New York. Unlike the other schools highlighted in the Subcommittee's investigation, Molloy is a college in the traditional sense of the word, with a campus, honor societies, and athletic programs. The college offers over thirty undergraduate degrees and a Master of Science degree in nursing. The school gained accreditation from the Middle States Association of Colleges and Secondary Schools in 1967. Enrollment has grown from 44 (in 1955) to over three thousand undergraduates in 1992. Currently, tuition is $7,990 per year ($3,995 per semester).

Beginning in 1987, the school began offering an off-site Associate's (AA) Degree Program for Recent Immigrants at over 40 independently operated locations in the New York City area. This program awards an Associate's Degree in Liberal Arts and caters primarily to Russian immigrants. The Associate's Degree in Liberal Arts is offered at the main campus, as well, and normally requires 2 years to complete. The Associate's Degree Program for Recent Immigrants normally requires 3 years to complete the same framework of courses, because of the addition of two semesters of English as a Second Language.

The enrollment figures shown above reflect a doubling of Molloy's enrollment in a six-year period primarily as a result of the influx of students enrolling in the AA Degree Program for Recent Immigrants. Moreover, the School's receipt of Pell grant funds increased substantially—tripling in just 2 years—as a direct result of the development and growth of this program because almost everyone enrolled in the Recent Immigrant program received Pell Grants (see Appendix I). The Department of Education and the New York State Comptroller's Office, on behalf of the New York State Education Department, conducted audits and reviews of this particular program which raised a number of questions concerning the school's participation in the Pell grant programs. The New York State Education Department, within the past 2 weeks, found the AA Degree Program for Recent Immigrants significantly different from the State-approved program on campus, leading to the program being declared ineligible for student financial aid funds.

Prompted by questions raised by the Department of Education's reviews, the Staff undertook a case study of Molloy's AA Degree Program for Recent Immigrants and found the following:

—Rapid growth of the off-campus AA Degree Program for Recent Immigrants led to large increases in the amount of Pell Grant funds disbursed to the school and provided significant profits for the school and sites involved.

—Promotees of the off-campus locations offering the AA Degree Program for Recent Immigrants sought out and associated themselves with Molloy College in order to obtain eligibility for Federal and State financial aid funds by using the eligibility previously granted Molloy by the Department of Education.

—The AA Degree Program for Recent Immigrants was specifically designed to ensure that students paid no money for the education other than that which the Government would provide under the grant programs. Tuition not covered by Federal or State grant programs was waived by Molloy College, unlike the Associate's Degree offered on campus, where full tuition was collected. As in the cases of Bais Fruma and Sara Schenirer, students were recruited and were paid to attend the program in exchange for signing up for financial aid.

—Employees of Molloy College had minimal control of or involvement in the actual operation of the off-campus AA Degree Program for Recent Immigrants. As in the case of Sara Schenirer, the off-campus locations to date have primarily given English language classes to Russian immigrants, some of whom we believe have little or no expectation of receiving a degree.

—Despite its lack of control or involvement in the actual operation of the AA Degree Program for Recent Immigrants, Molloy received a set portion of the Federal Pell grant funds disbursed for students attending the off-campus classes.

—Molloy College lacked adequate oversight over the program at the AA Degree Program for Recent Immigrants at the off-site locations, leading to many of the findings listed by the State and the Department of Education in their respective audits and reviews.

—The Middle States Association of Colleges and Schools failed in its responsibility to assure the quality of education of the AA Degree Program for Recent Immigrants and to provide an adequate review process.

—Molloy's AA Degree Program for Recent Immigrants was found to be significantly different from the on-campus Associate's Degree program on which it was modeled by the New York State Education Department and also by the U.S. Department of Education. Because of those differences and the fact that the off-campus program as operated had not been approved, the financial aid funding was disbursed to an ineligible program. If these findings are upheld, this could result in up to $16 million in liabilities for Molloy.

The Subcommittee, in studying the AA Degree Program for Recent Immigrants at Molloy College, went beyond a simple examination of State and Federal administrative reviews of the off-campus program. The Subcommittee Staff actually visited off-campus sites, conducted interviews with school representatives, points of contact at the organizations managing the off-campus classrooms, teachers, and students, as well as representatives of the Department of Education and New York State Education Department. Additionally, reports issued by these departments as well as numerous documents provided by Molloy and the off-campus sites were reviewed. The results of this study revealed a disturbing picture of abuse of the Pell Grant program.

THE BEGINNING AND GROWTH OF THE PROGRAM

Besides the academic programs offered at the main campus, Molloy College sponsors several courses of study at various locations throughout the New York City area. Their "Continuing Education and Training for Industry" program is an example and it awards certificates in a number of concentrations with classes held both on campus and off. By far, the largest such program, and the one which concerns the Subcommittee, is the "Degree Program for Recent Immigrants". Molloy's 1992–1993 catalogue describes the program this way:

> "Molloy College offers an Associate's Degree Program for recent immigrants at a number of different locations in New York City. The sites include Far Rockaway, Forest Hills, Jackson Heights, Manhattan Beach, Sheepshead Bay, Flatbush, Brighton Beach and Crown Heights and others. In addition the College also has enrolled, on campus, a large number of Russian students who are studying in an accelerated program toward a Bachelor's Degree and to become Registered Nurses. As the population of immigrants continues to expand as a result of changes throughout the world, and the demand for these types of programs continues to grow, additional sites and additional programs will be developed. This aspect of the Molloy community adds a diversity and richness which is of benefit to us all."

According to the catalogue, the Associate's Degree (AA) mentioned above specifically awards a Liberal Arts AA to students who complete the course of study. This off-campus AA degree is the same degree as awarded to students who attend classes on campus, and the off-campus program is supposedly modeled after the on-campus AA degree program. It is useful at this point to outline, generally, the requirements for completion of the AA Degree in Liberal Arts as offered on campus.

According to the catalogue, an on-campus AA degree candidate must complete a total of 64 credits with a "C" average or better. The credits are divided into 52 core (required) credits and 12 elective credits. Thirty-three of these credits must be completed in residence at the Molloy campus. The AA offered off campus differs from that on campus in several respects. The addition of credits for an English as a Second Language (ESL) requirement, method of instruction in some classrooms, and the structure of the curriculum are chief among these. These differences prove crucial in recent developments concerning Molloy and the AA Degree Program for Recent Immigrants. Before comparing the two in depth, it is necessary to understand the evolution of the off campus AA program, it's comparative size, and the effects it has had on enrollment, revenue and the amount of Federal and State student financial aid received by the College.

Sister Patricia Morris, Vice President of Academic Affairs of Molloy College, acts as the school's contact relative to the development and oversight of the AA Degree Program for Recent Immigrants. During an interview with her in July of 1993, Morris stated that the program began in 1987. During the early part of that year, Rabbi Joseph Gelman approached the school for their sponsorship in offering their AA degree through the two schools he represented. These two schools were the Long Island Seminary and the Academy for Jewish Education. Gelman told Molloy that, although these were accredited Jewish studies programs, he was looking for a way to provide a liberal arts education to the students at these schools to broaden their educational opportunities, and to offer something other than a religious program. Gelman told Molloy that he had already approached the City University of New York (CUNY) and they were not interested. He said he chose Molloy because he liked the looks of their campus. Gelman wished to offer this program to these students not at Molloy's main campus, but at sites located in the students' neighborhoods.

After a few months of negotiations between Molloy College and Gelman regarding curriculum, off-campus and Molloy administrative and teaching requirements, and financial responsibilities, the program began in the Fall, 1987 semester. The program, as described by Gelman, catered to a population of Russian Jewish immigrants. These students were mostly elderly and spoke little or no English. Some students were highly educated in their native country but needed the language and further study in the United States to help them locate work. This profile continued throughout the growth of the program with the exception of two contracts which Molloy later signed with other organizations, whose students were of varying ethnic backgrounds.

According to Morris, there were initially two locations with the site at Forest Hills enrolling 18 and the site at Far Rockaway enrolling 16 students. From this modest start, the program mushroomed into over 40 sites with nearly 1,800 students in just 5 years. While there are over 40 sites, Molloy contracted with ten organizations which managed varying numbers of the sites. The sites where classes are held are located in community centers, senior citizens centers, synagogues, churches, and public schools depending on the organization managing the program. Many of these sites are located near the homes of students for their convenience. The sites are also located in community centers which serve the Russian immigrant community as this is where many of the students are "recruited" for the off-site program. The table below shows the organizations which contracted with Molloy to offer the off-campus AA Degree Program for Recent Immigrants and their date of entry into the program.

AA DEGREE PROGRAM FOR RECENT IMMIGRANTS

Contract	Date of entry
TORAH (Formerly Long Island Seminary and the Jewish Academy for Education)	Fall 1987
Institute for Refugees for Eastern Europe (IREE)	Fall 1989
Metropolitan Education Center (MEC)	Fall 1991
Kollel Birchas Yaakov/DARS Derech Ayson Rabbinical Seminary	Spring 1991
Coalition for the Advancement of Religion and Education (CARE)	Fall 1992
Peninsula Education Center (PEC)	Fall 1992
Council of Jewish Organizations (COJO) of Flatbush	Spring 1992
Jewish Institute for New Americans (JINA)	Spring 1992
English Learning Systems (Kass)	Spring 1992
Academic Learning Center (Schauder)	Spring 1993

In the fall of 1990, the AA Degree Program for Recent Immigrants began to grow significantly. Molloy College signed two more contracts with entities desiring to offer the AA Degree in their communities. The off-campus locations increased to seven. The 1991–1992 school year saw Molloy contracting with seven organizations and the sites increasing from 11 in the Spring 91 term to 22 in the Fall of 1991. Over the next three semesters the number of contracts increased, varying from 8 to 9 and the number of sites multiplied from 28, to 37, to finally 45 in the Spring 93 term.

As the off-campus program grew, so did the amount of Pell funds Molloy received. Pell Grant payments for all students enrolled at Molloy actually fell slightly during the period covering the 1979–1980 to 1986–1987 school years. The ensuing years saw the disbursements increase ten times in size from $328,728 in 1987–1988 to $3,391,491 in 1992–1993. The amount of Pell funds provided nearly tripled in the 1990–1991 to 1991–1992 school years alone.

In order to get the true picture of the amount of Pell funds disbursed solely to students in the AA Degree Program for Recent Immigrants, a comparison must be made between the total amount of Pell funds disbursed to all Molloy students and the amount allocated to the AA Degree Program for Recent Immigrants students. This computation reveals that even at the beginning of the program, the AA Degree Program for Recent Immigrants students received a significant portion of the Pell monies. The following table shows that the thirty-four students initially enrolled in that off-campus program in the 1987–1988 school year received $82,900 in Pell Grant funds according to records supplied by Molloy. This accounted for approximately 25 percent of Molloy's total Pell disbursements. In the 1991–1992 school year that figure had increased to 80 percent and in the last year of operation, 1992–1993, the figure increased to 83 percent of total Pell disbursements to Molloy. It is important to note that enrollment in the AA Degree Program for Recent Immigrants is roughly equal in size to the total on-campus enrollment for all programs at Molloy which receives only 17 percent of the Pell disbursements.

PELL DISBURSEMENTS TO THE AA DEGREE PROGRAM FOR RECENT IMMIGRANTS VERSUS TOTAL PELL DISBURSED TO MOLLOY COLLEGE

Year	AA Degree Program for Recent Immigrants	Total Pell Disbursed	Percent
1987–1988	$ 82,900	$ 328,728	25
1988–1989	244,810	524,240	46
1989–1990	219,300	826,777	27
1990–1991	772,729	1,187,158	65
1991–1992	2,537,294	3,153,240	80
1992–1993	$2,828,181	$3,391,491	83

Molloy College's total revenues and income from tuition and fees also increased as a result of the growth of the program (see Appendix J). The effects of this growth can best be expressed as a percentage of these two categories. The amount of Molloy's total tuition and fees which were generated by the AA Degree Program for Recent Immigrants grew from less than 1 percent of the total in 1987–1988 to 14 percent of the total in 1991–1992. The percentage of total revenue to the college which is comprised of the AA Degree Program for Recent Immigrants receipts also climbed from less than 1 percent in 1987–1988 to 10 percent in 1991–1992. Molloy College stated that while this figure is significant, the college could operate without the income.

CONTRACTS WITH THE OFF-SITE LOCATIONS

The Subcommittee reviewed the off-campus contracts for each of the organizations which associated with Molloy since the start of the program in 1987. This review showed that Molloy and the organizations they contracted with to offer the AA Degree Program for Recent Immigrants:

—Delegated all responsibility for conducting classes, establishing locations for classrooms, hiring of teachers, and recruitment of students to the contracting organizations, while Molloy College collected a fee per student for providing administrative services and minimal academic oversight and review.

—Specifically designed the program to accept as payment only what Federal and State grant programs would provide in contrast to procedures on campus, where students are expected to pay the full cost of tuition. By charging the students in the AA Degree Program for Recent Immigrants the same tuition as students attending on campus and then accepting only what grants the students could receive, Molloy College waived nearly 40 percent of the tuition "owed" them. This procedure was not used carte blanche for students attending Molloy's main campus.

Molloy's initial contracts with the Long Island Seminary and the Academy for Jewish Education set the pattern for all contracts negotiated in subsequent years. Responsibilities for conducting the AA Degree Program for Recent Immigrants were split between Molloy and the off-campus organizations. Perhaps the major responsibility for the organizations was recruitment of instructors. The organizations and their respective sites advertised for instructors through newspapers and word of mouth within the community surrounding the site. They were then either approved or disapproved by Molloy based on a review of their resumes. Those instructors approved were then given the title of "adjunct lecturers". The instructors were not employees of Molloy and were paid by the organizations. Molloy's stated requirement for qualifying as an instructor for the AA Degree Program for Recent Immigrants was that the instructors hold at least a Master's Degree in the course of study they were teaching. At least in some cases, as pointed out later in the statement, this requirement was not satisfied. The organizations also were supposed to provide "academic assistance" to Molloy in the areas of curriculum development and planning. During discussions with Molloy College officials and organization representatives and instructors, they stated that Molloy College often provided the course syllabus as taught at the Liberal Arts AA degree on campus as a guide for the material to be covered at the locations providing the AA Degree for Recent Immigrants.

The organizations operating the sites were also responsible for all physical facilities and related overhead such as classrooms, utilities, and insurance. Fees related to advertising the program fell to the sites along with any transportation costs and field trips associated with the program. For its part, Molloy processed the financial aid paperwork through their existing system at the college. They also prepared transcripts and maintained the student's official academic record. The organizations assisted their students in preparing financial aid forms and were responsible for ensuring that required information was provided to Molloy and Federal and State agencies. The sites also had to forward attendance records and grades to Molloy through their respective organizations, so that the academic files could be updated and maintained.

Whereas Molloy College exercised total control over faculty, curriculum, students, and administration of their on-campus academic programs, many of these key functions of the off-campus Recent Immigrants program were delegated to the organizations they contracted with, and little oversight of these activities by Molloy appeared to take place. As the Staff discusses later in detail in this statement, Federal program reviewers and State auditors reached the same conclusion.

According to the contracts reviewed by the Staff, Molloy provided the majority of the tuition and fees collected for the AA Degree Program for Recent Immigrants to the organizations in compensation for their efforts in providing the classes. Molloy kept a set amount to offset costs associated with their administrative and oversight activities. For example, the 1987–1988 contract between Molloy and the Academy for Jewish Education states that tuition was $2,500 per semester and university fees were $200 per semester for a total charge of $2,700. The contract further reads that, "MOLLOY will compensate ACADEMY at the rate of two thousand one hundred and fifty dollars ($2,150) per student per semester for services provided under this Agreement." This meant that Molloy received $550 per student per semester under this agreement ($2,700 minus $2,150). The amount of tuition and fees charged by Molloy and the amount they kept changed over the years but Molloy always received a set amount per student per semester regardless of the amount of aid the student received.

The fees and tuition charged by Molloy were the same for all programs, were published in Molloy's catalogue, and supposedly were paid by all students both on and off campus. These figures are used, in part, to determine the "cost of attendance" in computing a student's eligibility for a Pell grant. But instead, in the case of the AA Degree Program for Recent Immigrants, the students did not pay any money at all and, by contrast, were paid to attend the classes. According to Anthony Riso, the Vice President for Business and Finance at Molloy, the college designed the program so that the students would not have to pay any fees. When asked if there were any cash-paying students at the AA Degree Program for Recent Immigrants locations, Riso said there were not. We do note that during an interview of the contact for the Metropolitan Education Center (MEC), a Molloy AA Degree Program for Recent Immigrants contractor, he said he had eight cash-paying students. That, however, was the only indication that the Staff has found that any students paid out of pocket funds to attend classes.

The AA Degree Program for Recent Immigrants worked this way. Each student filled out forms for either Pell Grants or New York State Tuition Assistance Program (TAP) funds or most often both. Since the students were primarily Russian immigrants (except for the MEC and the Council of Jewish Organizations (COJO), Flatbush which enrolled students from varied ethnic backgrounds) who had little or no income other than that received from public assistance programs, they were very often eligible for full Pell Grants and TAP funds. TAP is similar to Pell in that both are grants which the student never has to repay.

Whatever Pell and TAP funds the student received were applied to his or her account for the school. In 1992–1993, Molloy would keep $750 per student per semester and the remainder would be given to the organization. The remainder did not nearly cover the total tuition and fee figure which for 1992–1993 would have been $7,990 per year. This gap was written off or waived by Molloy as "Jewish Seminary Costs" and alternately referred to as "Scholarship Assistance" or "Off-site Institutional Aid". Apparently, the AA Degree Program for Recent Immigrants was designed so that no student would pay any personal funds or be required to obtain any student loans. Whatever portion, however large, of the tuition that was not covered by Federal and State grants would be waived. In fact, the tuition fees listed in the catalogues bore no resemblance to the actual cost of the AA Degree Program for Recent Immigrants or the amount actually expected to be received from the students, and should not have been used in computing these students' eligibility for Pell grants.

This procedure of accepting only grant money was certainly not used on the main campus, where most students were, wealthy or poor, expected to pay the fees listed through a combination of personal funds, grants, scholarships, and loans. Rather than leveling the playing field for all poorer students attempting to gain higher education, the use of the Pell program in this manner completely upset it.

Paragraph 7 of the 1987–1988 contract between Molloy and the Academy for Jewish Education reads:

> "In the event a student duly accepted into the program under this Agreement is unable to pay the full tuition and fees therefor from all sources rea-

> sonably available to the student, including but not limited to personal and family resources and such student financial assistance to which the student may be entitled, SEMINARY shall award scholarship funds to the student to make up the difference in the amount the student pays and the full cost of tuition and fees. Seminary shall remit any such scholarship funds to Molloy on behalf of the student."

This paragraph, which was in all subsequent contracts between Molloy and the agencies involved, reads as if personal funds available to the student will be used to help pay the costs and that actual "scholarship funds" are provided to Molloy to offset the costs. In fact, to the knowledge of the Subcommittee, neither Molloy nor the organizations ever took any action to collect personal funds from the off-campus Recent Immigrants program students, nor did the organizations provide scholarship funds to help pay the tuition and fees. The government was the sole payor and supporter of this program, unlike any other Molloy degree program. When asked if the same courtesy was extended to the students taking the AA degree on campus or any other degree program offered by Molloy, school representatives said they felt there were cases on campus where tuition was waived but they could not say how many or how much money was involved.

Molloy College supplied the Subcommittee with the records showing the amounts individual students enrolled in the AA Degree Program for Recent Immigrants received for Pell and TAP along with the tuition and fees charged, the amount of tuition waived, and the amount Molloy received. This information was provided for each off-campus contractor for the entire time they were associated with the program. For instance, the following three examples of typical students are taken from the listing for IREE (Institute for Refugees from Eastern Europe) a Molloy contractor for the program for the 1992–1993 school year.

THREE EXAMPLES OF TYPICAL STUDENTS TAKEN FROM THE LISTING FOR INSTITUTE FOR REFUGEES FROM EASTERN EUROPE

Tuition and Fees "Charged"	Amt. of Pell $ rcvd	Amt. of TAP $ rcvd	Total tuition and fees waived	Molloy's Fees
$8,020	$1,650	$4,050	$2,320	$1,500
$8,020	$2,400	$4,050	$1,570	$1,500
$4,010	$1,200	$1,788	$1,022	$ 750

The amounts for the third example are significantly less than the first two, because this person only attended one semester during that school year but the concept remains the same.

The above examples are typical but individual students received varying amounts of Pell and TAP so the amount waived would vary. Perhaps the most telling point is that the printouts provided by Molloy did not even have a column for personal contributions or other sources of funds a student could use to pay if he were able. Again, Molloy and the organizations accepted whatever the government would provide while the government provided the deep and endless pocket of the Pell Grant program.

In theory there was no limit to how large the program could become. Molloy seemed willing to contract with all organizations that approached them. The organizations had a large and willing pool of "students" who were eligible for the grants. The organizations were able to enroll them in classes free of charge and, as shown below, pay them for attendance at the same time. Only when Molloy was faced with audits and reviews and an increasingly unwieldy administrative burden caused by the burgeoning student body, did the school show hesitation in expanding the program.

The figures involved for the amount of Pell and TAP received by Molloy and the organizations and the amount of tuition waived for the AA Degree Program for Recent Immigrants are staggering. The table below shows the total amounts for each of these categories. In the seven school years encompassing the 1987–1988 to 1992–1993 period, $6,638,136 in Pell Grants were awarded to students enrolled in this program. TAP provided an additional $9,997,812. The amount of tuition waived by Molloy equalled $11,034,150 or nearly 40 percent of the total tuition and fees for the program. Molloy received 31 percent of the Pell and TAP funds ($5,177,800) from the fee per student that was collected, while the remainder went to the sites.

AMOUNT OF PELL AND TAP FUNDS DISBURSED FOR THE AA DEGREE PROGRAM FOR RECENT IMMIGRANTS SCHOOL YEARS 1987–1988 TO 1992–1993

Total Amount Charged by Molloy	Pell funds disbursed	TAP funds disbursed	Tuition and fees waived
$27,670,098	$6,638,136	$9,997,812	$11,034,150

The individual organizations that contracted with Molloy grossed large amounts of money on this program. The size of the program, as determined by the number of sites and students, obviously affected their receipts. For instance, the original two contracts, The Long Island Seminary and the Academy for Jewish Education grossed $412,326 and $693,999 in the first 4 years of operation. They subsequently took on another name under the Molloy program (Torah) and grossed another $343,004 in the next 2 years for a total of $1,449,329. But this amount pales compared to the size of the Institute for Refugees of Eastern Europe (IREE) and the Metropolitan Education Center (MEC) receipts. IREE started in 1989 and MEC in the 1991–1992 school year and both continued on into 1992–1993. IREE grossed $4,669,848 and MEC grossed $2,439,134. None of the amounts grossed by these organizations would have been available to them had they not had access to Federal and State funding through Molloy's accredited and approved program. This table provides the figures for the various contractors.

INDIVIDUAL ORGANIZATIONS THAT CONTRACTED WITH MOLLOY COLLEGE

Contractor	Amount	Years in program
Academy for Jewish Education (AJE)	$ 693,999	4
Long Island Seminary (LIS)	$ 412,326	4
TORAH (Combination of AJE/LIS)	$ 343,004	2
Kollell Birchas Yaakov/DARS	$1,211,062	2
IREE	$4,669,848	3
English Learning Systems (KASS)	$ 430,830	2
Council of Jewish Org. (Flatbush)	$ 681,691	2
Jewish Institute (JINA)	$ 224,859	2
MEC	$2,439,134	2
Adult Learning Center	$ 36,302	1
Academic Learning Center (Schauder)	$ 8,352	1
Coalition for the Advancement of Religion & Education (CARE)	$ 226,652	1
Peninsula Education Center (PEC)	$ 80,089	1

These figures are gross and do not account for salaries of instructors, rent, and other overhead. The Subcommittee, during interviews with representatives for three contractors, asked for figures which would show expenditures under the program. COJO Flatbush provided figures which showed a profit of just over $90,000 in the period June 1992 to June 1993. This was from revenue of $646,625 and expenses of $555,750. These figures were provided by their accountant who is currently conducting the audit for this period. The other two entities, IREE and MEC, could not immediately provide figures but both agreed to provide the information subsequently to the Subcommittee. As of the date of this hearing, after repeated requests, neither had provided any information or records which accounts for any of the funds received under this program.

Molloy College has grossed $5,177,800 as a result of its sponsorship of the AA Degree Program for Recent Immigrants. The source of these funds is the fee per student they charged, which is obtained from the Pell and TAP funds the students received. During interviews, Molloy representatives stated that they hired the equivalent of two and one half additional staff to handle the increased workload brought on by the additional students. Some of the existing staff, such as Mr. Riso, Sister Morris, and Susan Swisher, the Financial Aid Officer, spent varying portions of their time on administering the program. The new salaries and portions of salaries of existing employees which could be applied to this program clearly do not approach $5 million. Riso estimated the cost of the additional salaries at $60–$70,000 a year.

PELL GRANTS AS A WELFARE PROGRAM

Our review revealed that, as mentioned earlier, students in the AA Degree for Recent Immigrants Program were paid for attending classes. With the exception of one contractor, the Metropolitan Education Center, all sites provided "stipends" to their students. These stipends were in the form of payments for each semester of attendance. These payments ranged from $200 to $400 per person per semester. These funds were paid by the off-campus organizations from the Pell and TAP monies received from Molloy. According to the organizations and Molloy, these funds are used by the student to offset the expense of attending the school such as public transportation. However, our review found that the stipends played a far larger role in the program.

During interviews of numerous students and organization contacts, it became clear that a major reason that the students enroll in these classes is to receive the stipend. One Molloy student related that the elderly Russians in the AA Degree Program for Recent Immigrants depended on the stipends to survive in the New York City area. He said that Social Security benefits were simply not enough to pay for rent, food, and clothing for these elderly people. He said he did not know if students would continue to attend school if they were not paid a stipend. One student who attended the Institute for Refugees from Eastern Europe said he and his wife both received $250 a semester. He said because they are elderly immigrants, the cash payments helped him immensely. Therefore they both go to school two semesters a year. He said, "This really helps a lot."

In fact during a discussion with one Molloy point of contact, Rabbi Kass of English Learning Systems, he explained that the "going rate" for stipends this semester is $400–$500. He said the students who sign up for these classes are well aware of what amount of stipend they should receive and news of the size of the amount spreads throughout the community. Although he would not specifically say, his inference was that students would shop around from program to program depending on the size of the stipend. Ms. Grace Brandi, who is the director of the Surf-Solomon Senior Center where Molloy classes for this program are held, said that the students at this location were paid $250 a semester. She felt the Russian students knew that they would get paid, so that is why they attended the classes. The Pell grant program for these students turned into a social support program, the primary purpose of which, according to the students, was monetary support.

Those who promoted these programs were clearly aware of this. The attached chart (see Appendix K) shows an advertising poster from the Haber House Community Center, a site under the Jewish Institute for New Americans (JINA) which contracted with Molloy. As can be seen, nowhere does it say anything about Molloy College, liberal arts, or an Associate's Degree Program for Recent Immigrants. Instead it advertises for Adult English Classes and prominently mentions the fact that stipends are available. A call to the listed number (Haber House) confirmed that this poster advertised for Molloy's program. During an interview of a teacher at the Surf Solomon site, she confirmed that students learned of the program through this poster. The staff believes that many of the students enrolled in the AA Degree Program for Recent Immigrants had no knowledge of or intent to participate in any degree-granting program.

As outlined in the previous testimony concerning the Sara Schenirer Seminary, the Subcommittee Staff interviewed several students who had enrolled in a number of schools, including Molloy's AA Degree Program for Recent Immigrants, over the past three to 4 years. Some of these students could not remember which schools they were enrolled in, the name of the school, or the name of their instructors including their time spent in Molloy's degree program.

The Department of Education compiled a partial list of students who received Pell Grants and attended four or more institutions. The list concentrated on schools similar to those being described today. There were 94 students enrolled at Molloy in the AA Degree Program for Recent Immigrants who were either previously or subsequently enrolled in as many as 2 to 4 other programs according to Department documents. They never finished Molloy's program and most likely never intended to finish. During an interview of one off-campus organization representative for Molloy, he stated that programs such as those investigated by the Subcommittee "mushroomed" in the community. When asked if any of these schools were taking advantage of the immigrants in order to receive Federal funding, he said that when money is involved, there is always someone there to take advantage of the people and education was no different. This representative said he had witnessed a number of programs where students "waste" 2 years and achieve nothing. He has seen people spending time in English as a Second Language (ESL) programs and moving from school to school and never progressing toward a degree. He called these people perpetual students.

QUALITY APPEARED TO BE LACKING OFF-SITE

The level and quality of the education offered at some of the sites did not appear to approach what the Subcommittee would describe as college level associate's degree work. During discussions at the Institute for Refugees of Eastern Europe

(IREE), tests were reviewed for students who had progressed beyond the mandatory ESL portion of the program and into liberal arts courses. One test showed a picture of a circle divided into thirds. The student was asked to color in the appropriate portion of the circle with the designated color. The IREE classes also taught courses in Russian, the native language of the students. Even though these students had supposedly completed the mandatory portion of the degree program consisting of ESL, the liberal arts courses were given in Russian. The Director of the Institute, Rabbi Zvi Bronshtein, said that the students were better able to assimilate the knowledge if it was imparted in their native language. This seems to partly negate the rationale for providing two semesters of ESL at the front of Molloy's program. He estimated that roughly 50 percent of the classes were taught and tested in Russian. At the Jewish Institute for New Americans (JINA), a teacher interviewed by the Subcommittee stated she was hired to teach ESL one day a week to substitute for the regular teacher who was Russian and used that language in her instruction the other 4 days. She said she was hired by JINA as they felt the students would learn more this way.

Another example was the Metropolitan Education Center organization, which offered Molloy's AA Degree for Recent Immigrants, in a mentor program as opposed to the other organizations which offered traditional classroom study. Under mentoring, the student is required to attend class only five times a semester. The student is assigned a "mentor" who oversees his work and provides guidance on the material that is to be learned for the class. The student is given the books and a guide for the class which shows what information the student is responsible for. Testing is done on set days when all students attend. The New York State Education Department later determined this to be a method of instruction which had not been approved for use by Molloy in offering their AA degree. Molloy had approved the use of this type of instruction by MEC, but the Subcommittee, along with the State, questions the validity of this method.

According to Molloy representatives and the organization contacts, many of the students were very well educated prior to coming to the United States. These students were supposedly trained as engineers, pediatricians, and nurses in Russia. However, the Subcommittee found that many of the students were elderly and may have not had the physical stamina and mental acuity to comprehend and absorb the material. One instructor at IREE said she had an 87-year-old student and that her students were all elderly Russians. In one of her classes, she said that most of the students had suffered strokes and their thinking level was not high. She said they were able to internalize the material but were not able to express the material.

A review of Ed's 1992–1993 Student Payment Summary of students attending Molloy's programs revealed a large number who were quite elderly. The review showed students who were 82, 84, 85, and 89 years old. While age is not a discriminator in determining who should or should not receive an education, the Staff questions whether these students would have enrolled in the program if they had not received stipends for attending.

The Staff also questions whether the cost the Government paid for these students to attend this program is cost efficient. If the students were not induced into this program through a no-cost approach coupled with a stipend, would they seek alternative, lower cost educational programs? Indeed, as shown in the Sara Schenirer statement, community-based organizations were offering ESL programs for free to this same population of students. But the availability of grant money through the Pell program provided an opportunity for some organizations to take advantage of the system.

MOLLOY'S OVERSIGHT LACKING

The oversight of the program by Molloy centered around ensuring that administrative requirements were met and did not include any in-depth review of the quality of the education or the methods used to enroll and attract students. In an initial interview, Sister Morris said Molloy was responsible for verifying the quality of the education and ensuring that the program met the same standards at the organizations as on campus. Molloy accomplished this partially by supplying the course outlines and curriculum from the on-campus AA degree courses as a guide to the instructors at the sites. Sister Morris stated that she visited each site once a year in order to assess the students and teachers. These were announced visits and no unannounced visits ever took place. Interviews with organization coordinators and teachers confirmed this for the most part. However one site coordinator said Molloy only visited two of his sites once each and never visited any of the others.

An indication of the lack of in-depth review of the programs was related by Patricia Edelman, the Department of Education program review official who performed the review of the AA Degree Program for Recent Immigrants. She said that several times while briefing Morris, Morris expressed surprise at some of the procedures used by the organizations. Examples included the way attendance was kept at some sites and the modification of Molloy's application by others.

Molloy's oversight of the adjunct lecturers consisted of reviewing the resumes provided by the organizations. Some of these resumes consisted of nothing more than three or four lines listing the teachers educational accomplishments. Many of the resumes from the Metropolitan Education Center appeared to be printed using the same format and perhaps even the same printer as if to fulfill Molloy's requirement for a resume. Both the New York State Education Department and the U.S. Department of Education reviews questioned the validity of some of the master's degrees claimed by the teachers. The State specifically cited three examples in their review which they felt did not meet Molloy's stated requirement of needing a Master's degree in the area in which they were instructing.

Molloy College performed no internal review of the AA Degree Program for Recent Immigrants even though its size eventually equalled and exceeded that of its total enrollment for all programs on campus. A review done by the Middle States Association of Colleges and Schools, their accrediting body, addressed the program, praised it, and offered some concerns. The report, issued after the October, 1992 visit, stated:

> "The Associate of Arts Degree Programs for Recent Immigrants at a variety of satellite locations appear to be an excellent financial boon to the college. However, it also appears to the team that the college may not as yet have created a firm policy for monitoring these programs to assure they are operated with the same standards used at the main campus. Secondly, the team believes that the college needs to conduct a thorough analysis of the long term viability of these programs. Furthermore, if the college wishes to count on revenues from these programs in the future, the team suggests the college may wish to consider the establishment of long-term formal contractual understandings with the leaders associated with these programs."

These statements clearly show that Middle States had concerns about the standards of the AA Degree Program for Recent Immigrants and the contractual relationships. They also recognized the financial windfall the program represented. The report echoed these sentiments with:

> "The recent gains in the admissions effort are congratulated by the team. The influx of new students and the development of numerous off-campus programs have served to boost enrollments and to increase revenues in important ways. The team believes the ability of Molloy College to sustain these gains and to begin a process of increasing the overall academic strength of each entering class will be a serious challenge in the coming years."

The source of financial gain was noted with these statements from the report:

> "Revenues as stated in the 1991–1992 audit for Molloy College reflect an increase of 21 percent unrestricted, and 128 percent restricted from the year prior. College expenses rose 13.7 percent unrestricted, and 138 percent restricted. Significant in the revenue increase was a marked rise in enrollment (full-time, part-time and the foreign transfer program). The balance of revenues over expenses for fiscal year 92 allowed the college to transfer a substantial amount to reserve accounts."

Middle States recognized a disparity in standards as noted above but says remarkably little about them and certainly did not express any serious reservations about the nature of the AA Degree Program for Recent Immigrants. One reason for this is that amazingly, the review team did not visit one site, speak with one student, site coordinator, or teacher associated with this program. In a letter to the Subcommittee, Middle States Executive Director Howard Simmons said that his team relied on the self-study report prepared by Molloy in preparation for the visit. He also said that, "Interviews with various campus constituents permitted the team to judge and evaluate activities at the off-campus sites. As such, the evaluation team determined that it was not necessary to visit those sites at the time of the evaluation." The letter also states that, "The team did not find any outstanding faults with the academic integrity of the off-site programs."

The Staff fails to understand how the review team could possibly provide a comprehensive report on Molloy's ability to run an effective program such as the AA Degree Program for Recent Immigrants without having visited the sites, students, site administrators, or teachers. The Staff feels it is impossible to truly understand the positive and negative aspects of this program without having visited the sites and instead relying almost entirely on the self-study report.

DIFFERENCES IN MOLLOY'S ON- AND OFF-CAMPUS PROGRAMS

As previously mentioned, Molloy's off-campus AA Degree Program for Recent Immigrants differed from the AA degree program on campus, on which it was modeled. According to their 1992 catalogue, Molloy's on-campus program required 64 credits for completion. Fifty-two of these credits are core requirements and the other 12 are electives. The core requirements consist of 6 credits in art and music history and 12 in English and modern language. Additionally there are credits required in each of the following; communication arts, history, political science, psychology, sociology, mathematics, science, introductory philosophy, philosophy, introductory theology, and theology. One full credit in physical education completes the core coursework. The students are able to choose their courses to complete the 12 credits in electives. The students are not required to take the courses in any particular order.

This on-campus program, as required by New York State law, is approved by the New York State Education Department. The off-campus AA Degree Program for Recent Immigrants, by purportedly offering this State-approved AA degree, qualified for receipt of State and Federal assistance, despite significant differences in the two programs.

According to Molloy's catalogue, the AA Degree Program for Recent Immigrants basically had the same core requirements and number of elective credits. However, the course was very structured and some differences existed. Due to the type of student enrolled in the program, primarily Russian immigrants, the program was front loaded with two semesters of English as a second language (ESL). This took the place of the English and modern language requirements cited in the on-campus program but also added 8 credits to the length of the program (72 credits). There was only one organization which enrolled mostly students whose primary language was English and they were not required to take the additional ESL classes.

Interviews with students, Molloy representatives, and organization coordinators revealed that many of the AA Degree Program for Recent Immigrants students have to date received only English courses and may not even be aware of the fact they are enrolled in a degree-granting program. One teacher at a site under the Jewish Institute for New Americans (JINA) was aware the program was with Molloy but not that it was for an AA degree. This same teacher said she had taught at the same location prior to Molloy's courses being offered. At that time the ESL program was under an institute she said was called Beer Hagola. This may also be a source of confusion for students who take courses at the same location but perhaps under different schools.

The Staff feels that Molloy and the organizations were less concerned for the students finishing the education than in keeping students enrolled for the income. This is at least partially born out in examining the graduation rate of the AA Degree Program for Recent Immigrants. The Staff looked at the numbers of students enrolled by semester at each of the sites. This analysis revealed that a large number of the students simply have not been in the program long enough to either graduate, move on to the fifth semester which, according to Molloy's schedule for the program, requires on-campus attendance, or move beyond the two semesters of ESL. Of those students who did, the numbers are revealing. By Staff count, there were 277 students who could have potentially graduated from the program. The Staff looked at the numbers of students enrolled by site for each semester, the number who withdrew, and the number enrolled the subsequent semester. This provided the staff with a maximum number of students who could have graduated. Of the 277, only 69 graduated for a 25 percent graduation rate. In an initial interview with the staff, Morris estimated that 50–60 percent of eligible students graduated.

It is impossible to determine the intentions and outcome of those students who are now enrolled and have not had the chance to complete the course requirements, but there is substantial evidence to suggest that many students simply enrolled to take the ESL. An interview with Rabbi Shmuel Hiller of the Peninsula Education Center (PEC), another Molloy contract, revealed that he was looking to open an ESL program when he heard about Molloy's degree program. He stated his primary purpose was to teach adults English. Further evidence of this is the poster shown previously which advertised for ESL classes as opposed to an AA degree from Molloy College. As was pointed out in the Sara Schenirer study, students interviewed by the Staff could recall taking only ESL classes.

REVIEWS FIND SERIOUS DEFICIENCIES

The Staff reviewed two separate reports on the AA Degree Program for Recent Immigrants, performed by the New York State Comptroller's Office and the U.S. Department of Education. Both these reports questioned the eligibility of this program to receive Pell and TAP funds. They requested the New York State Education Department, as the responsible office, to determine if the AA Degree Program for Recent Immigrants was the same program as the State-approved and eligible AA Degree program offered on Molloy's main campus. If it was not, then all Pell and TAP funds disbursed for the AA Degree Program for Recent Immigrants must be repaid by the college. The State, within the last 2 weeks, ruled the program ineligible, leaving Molloy facing the prospect of having to repay all or a portion of the $16 million in Pell and TAP disbursed.

In January, 1993, the Department of Education conducted their program review of Molloy's program. This review focused solely on the AA Degree Program for Recent Immigrants and its comparison to the AA Degree program offered on campus. This comparison was necessary because as mentioned above the Pell Grant funds are disbursed to eligible academic programs offered by an accredited and eligible school or college. The Department determines a school's overall eligibility but depends on the State to ensure an academic program meets State standards. They cited 11 findings which briefly stated are:

1. Lack of administrative capability;
2. Aid awarded to students in an ineligible program;
3. Inadequate basis for admission of students;
4. Incorrect Pell Grant cost of attendance;
5. Failure to determine previous postsecondary education;
6. Failure to determine the last day of attendance for informal withdrawals;
7. Failure to identify enrollment status;
8. Inadequate standards of academic progress;
9. Inadequate fidelity bond;
10. Inadequate written verification policies and procedures; and
11. Inadequate student consumer information.

The report states that it ". . . contains serious findings regarding the school's administration of the Title IV student assistance programs." It also says, ". . . it is this office's assertion that the programs offered at Molloy's extension sites are not eligible programs. We are seeking an opinion from the Commissioner of Education on this matter. . . ."

Essentially, the Department felt the AA Degree program Molloy was offering through the organizations was substantially different than the one offered on campus, which had been approved and was, therefore, eligible for Pell Grant funds. Because a program must be eligible to receive Pell Grant funds, disbursement to a program found to be ineligible would require the school to repay the improperly disbursed funds.

While the number and types of all these findings certainly calls into question the oversight of the AA Degree Program for Recent Immigrants by Molloy, the Staff is particularly concerned by the Education Department's findings of a lack of administrative capability, the determination of the program being ineligible, and the incorrect Pell Grant cost of attendance calculations. These findings directly confirm those detailed by the Staff, i.e., the poor oversight, the variances in the substance of the two programs, costs charged to the students, and the practice of waiver of tuition.

Molloy responded to the Department in a letter dated July 28, 1993. In their response, they indicated they were conferring with the State of New York concerning the eligibility of the program. They went on further to identify changes they would make to address the concerns of the Department or to defend the program, depending on the finding. They defended both the eligibility of the program and the figures used to calculate the cost of attendance while offering remedies for strengthening administrative oversight.

In May 1993, the Office of the Comptroller of the State of New York issued their report to Molloy regarding an audit they performed on state-funded student financial aid for the AA Degree Program for Recent Immigrants. The Comptroller's office is authorized to perform audits on behalf of the New York State Education Department (SED). This audit also found significant problems with Molloy's AA Degree Program for Recent Immigrants as indicated by their outlining a potential $5 million liability in State TAP funds for the period under review. The findings included: (1) Students who were not attending full time as defined by the State because of their taking remedial (ESL) courses; and (2) Ineligible program based on the mentoring program offered at the Metropolitan Education Center. There were other additional, though less substantial, findings.

The audit report stated that, ". . . students . . . followed a course sequence that requires 74 credits for graduation. Molloy's catalogue states that the satisfactory completion of 64 credits . . . is required for graduation with an AA Degree in Liberal Arts. Thus, these students are pursuing certain courses which are not applicable to the approved program." It also states that, "None of Molloy's programs were approved by SED for instruction in the mentoring mode." Finally it says, "SED is currently reviewing Molloy's arrangements with the external organizations. If the arrangements with any off-campus locations are determined to not be consistent with New York State regulations, the TAP awards paid during our audit period for students at these locations will be disallowed."

As noted above, the State was asked by the Department of Education to determine whether the AA Degree Program for Recent Immigrants was eligible, and the State Comptroller also noted the State was working on this determination. During the months following the audits, Don Nolan, the Deputy Commissioner for Higher Education and Professional Education for the State Department of Education, wrote a series of letters and met with Molloy College officials in an effort to gather information by which the State could make a determination. During his deliberations, he made a preliminary finding that the program was substantially different off campus than on and recommended that Molloy put the AA Degree Program for Recent Immigrants on hold until a final determination was made.

As a result of the preliminary determination, Molloy College sent a letter in August to all the off-campus organizations advising them the program was under review and would be placed on hold until a final determination was made by the State. Subsequently classes for the Fall 93 term were cancelled.

In a lengthy and detailed letter sent to Molloy College on September 30, 1993, Mr. Nolan made the decision that Molloy's program was ineligible. The letter read:

> "Based on this review, I note differences in courses taken, the 'mentoring format' offered in some locations, the nature, status, and evaluation of faculty offering the program, the advisement of students into a 'lock-step' program of twelve credits per semester (resulting in a program which requires 3 years rather than 2 years for completion), the treatment of transfer students, the admission requirements and procedures, and the available student support services. I must conclude, therefore, that the program which Molloy was offering at off-campus locations is not the AA program in Liberal Arts which was registered by this Department."

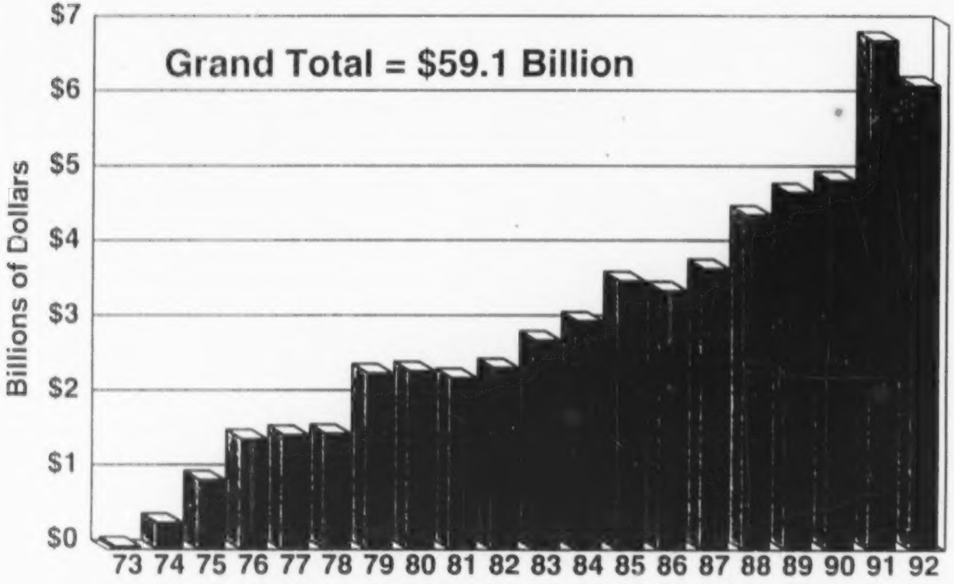
The State also notified the Department of Education who in turn wrote to Molloy and notified them that they must determine the total amount of funds distributed to students in the affected program. Any funds disbursed to a student which is found to be enrolled in an ineligible program will be a liability and is payable to the Department of Education.

Molloy College has indicated to the Subcommittee that they strongly disagree with and intend to fight the finding of the State. If both the State and the Department consider all student financial aid disbursed since the beginning of the AA Degree Program for Recent Immigrants in 1987 as a liability, Molloy will face the prospect of repaying nearly $16 million in Federal and State aid: $6 million in Pell and $10 million in TAP. They also pointed out to the Subcommittee that they have had a lengthy discourse with the State concerning the curriculum and modes of instruction of this program as far back as 1989. They also have applied for some of the sites to be designated extension centers. Molloy contends that they never received any guidance on these matters and that, if they had, many of the problems cited above could have been corrected and/or avoided.

The Staff concludes that Molloy College intended to offer their Associate's Degree to Russian immigrants. However, by delegating a large portion of the responsibility for conducting the program to a number of off-campus organizations and by not conducting adequate oversight, they instead provided an avenue for wholesale abuse of the Pell Grant program. Many students attended classes, not for the purposes of attaining some educational goal, but, rather, because they were paid to do so. In fact, many students attended only courses in English as a Second Language. The operating costs for these programs were minimal, both to Molloy and the off-campus organizations operating these programs. Based on our review, we believe the great bulk of Pell Grant funds disbursed for this program did not subsidize the cost of providing a quality education for needy and deserving students, but, instead, constituted substantial and, for the most part, unearned profits for both Molloy and the off-campus organizations.

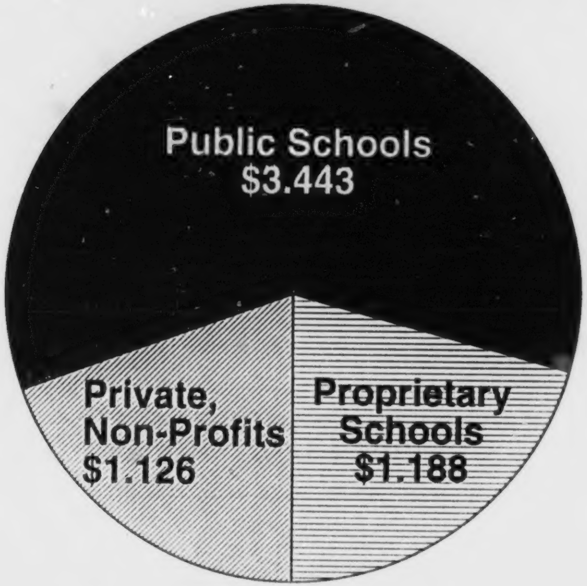
Pell Grant Program Expenditures

1973-1992



1991-1992 Pell Grant Authorizations

By School Type, In Billions of Dollars



Source: U.S. Department of Education

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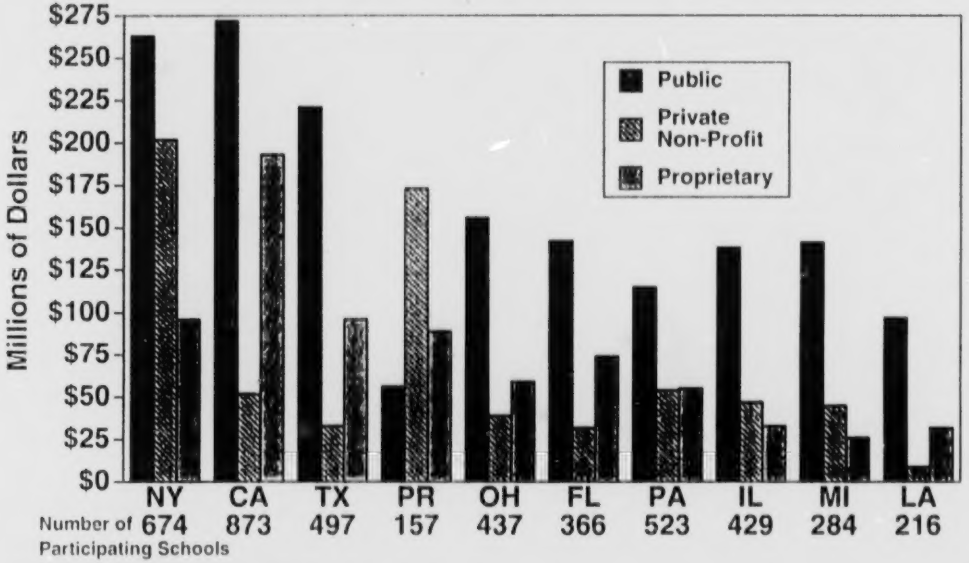
Pell Grant Program

Ten States with Greatest Funding in 1991-92



Source: U.S. Dept of Education

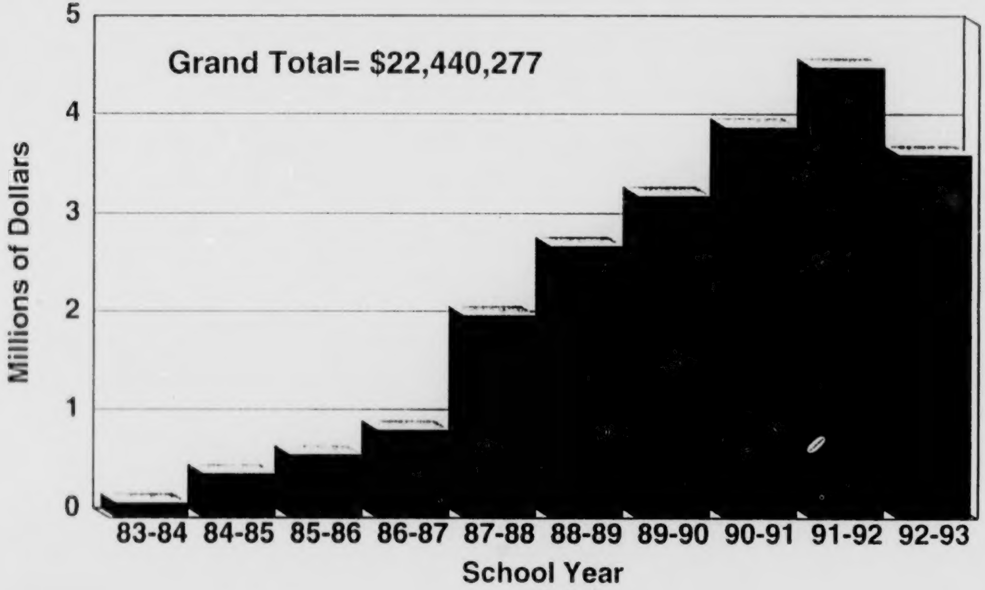
Con't
APPENDIX C

PELL GRANT PROGRAM
TEN STATES WITH LARGEST FUNDING IN 1991-92

* * * *

STATE	PUBLIC	PRIVATE NON-PROFIT	PROPRIETARY	TOTAL
NY	$263,974,410	$202,551,776	$ 96,850,053	$563,376,239
CA	$272,992,410	$ 52,823,762	$193,753,413	$519,569,585
TX	$221,626,241	$ 33,789,860	$ 96,961,346	$352,377,477
PR	$ 56,097,223	$173,659,560	$ 89,053,199	$318,809,982
OH	$156,713,901	$ 39,425,768	$ 59,578,481	$255,718,150
FL	$142,737,335	$ 32,819,481	$ 74,214,285	$249,771,101
PA	$115,906,979	$ 54,335,794	$ 55,284,820	$225,527,593
IL	$138,172,447	$ 47,200,852	$ 33,894,018	$219,267,317
MI	$141,809,574	$ 45,599,634	$ 26,192,755	$213,601,963
LA	$ 97,561,464	$ 9,768,926	$ 32,118,484	$139,448,874

Bais Fruma
Pell Grant Payments 1983-1993



Known Signatures of Sara Hoffman	Questioned Signatures of Sara Hoffman
Sara Hoffman	**From Bais Fruma Tuition Contract** Sarah Hoffman
Sara Hoffman	**From Bais Fruma High School Verification** Sarah Hoffman
Sara Hoffman	**From Bais Fruma Registration Form** Sara Hoff

APPENDIX F

BUILDINGS ON WHICH BAIS FRUMA PAYS MORTGAGE

1377 42nd Street
$700,000 Mortgage -- $7.5%

4018 15th Avenue
$2,000,000 Mortgage -- 18%

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BUILDINGS FOR WHICH
BAIS FRUMA PAYS RENT

1270 52nd Street
$510,000 to Yeshiva Chaim V'Shulom
2/18/90 - 4/28/93

5202 13th Avenue
$520,000 to Yeshiva Tifereth Bunim
12/7/89 - 4/28/93

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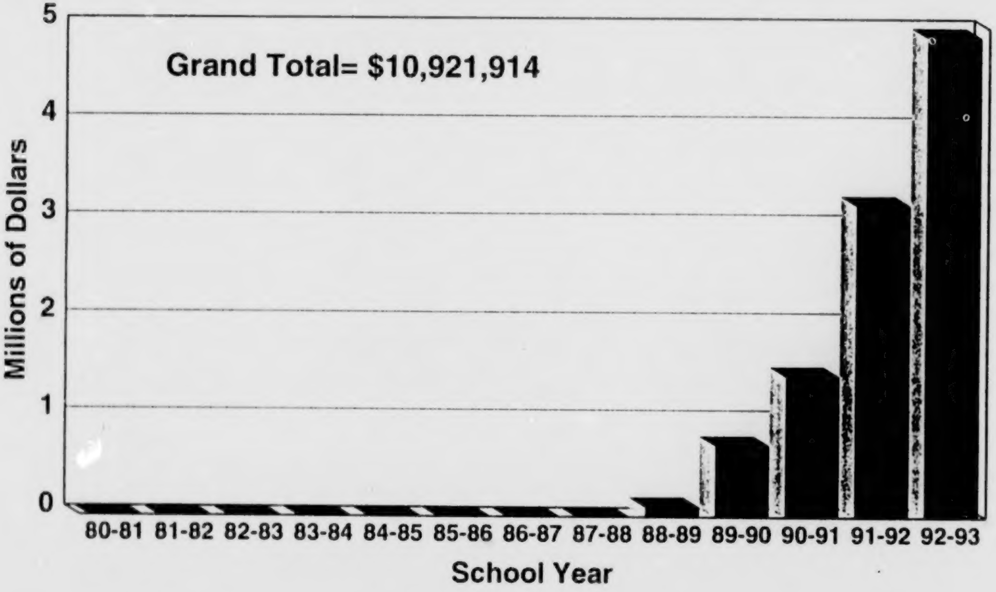
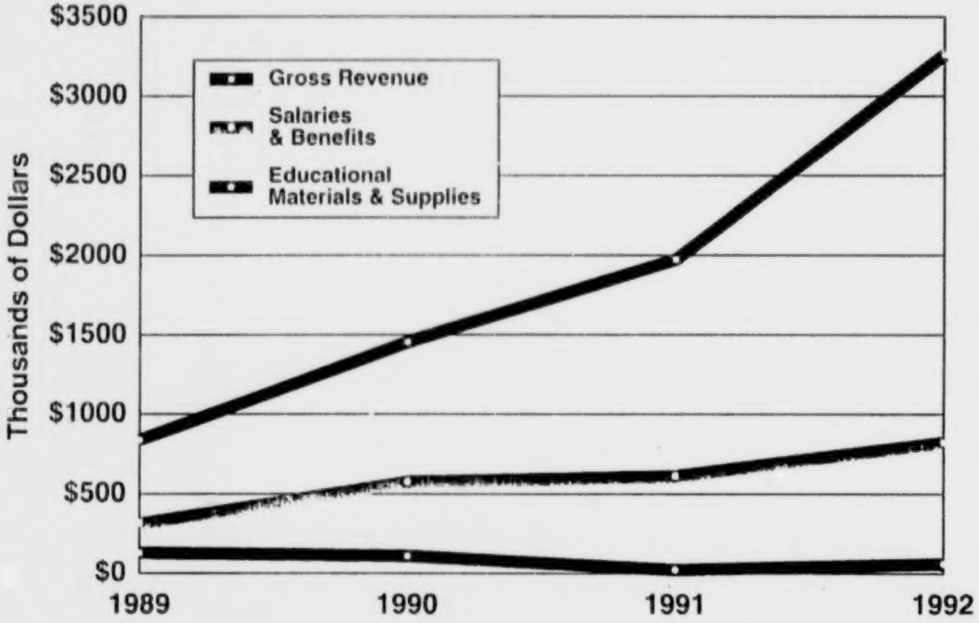
Sara Schenirer Teachers Seminary
Pell Grant Payments 1980-1993

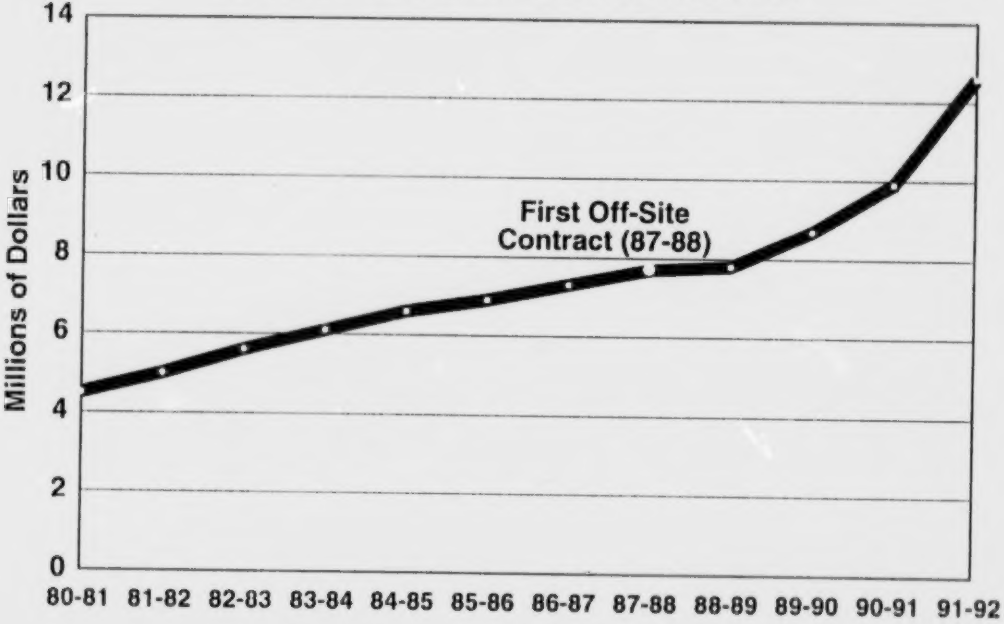


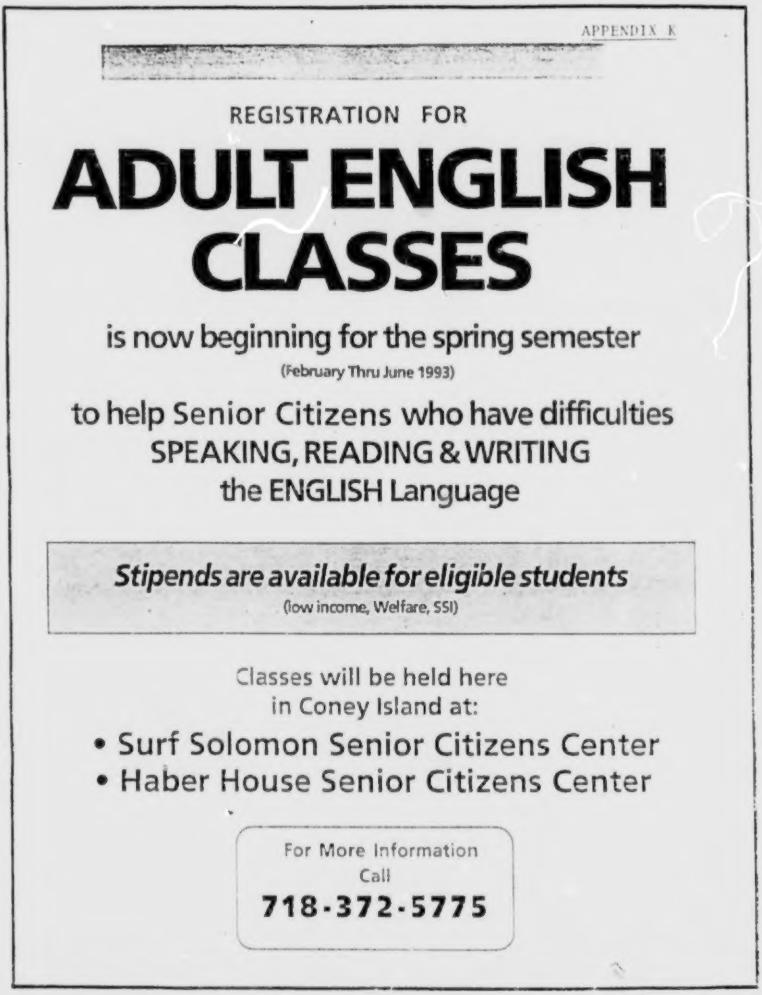
Sara Schenirer Teachers Seminary
Revenue, Salary, Educational Expenses



Molloy College Tuition & Fees Income

School Years 1980-81 to 1991-92





APPENDIX K

REGISTRATION FOR

ADULT ENGLISH CLASSES

is now beginning for the spring semester

(February Thru June 1993)

to help Senior Citizens who have difficulties
SPEAKING, READING & WRITING
the ENGLISH Language

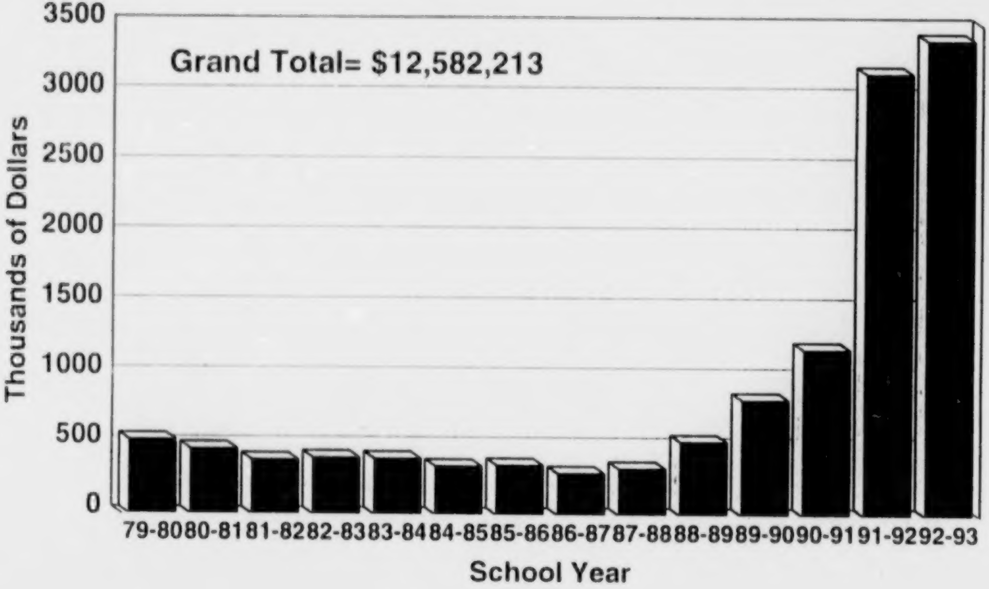
Stipends are available for eligible students
(low income, Welfare, SSI)

Classes will be held here
in Coney Island at:

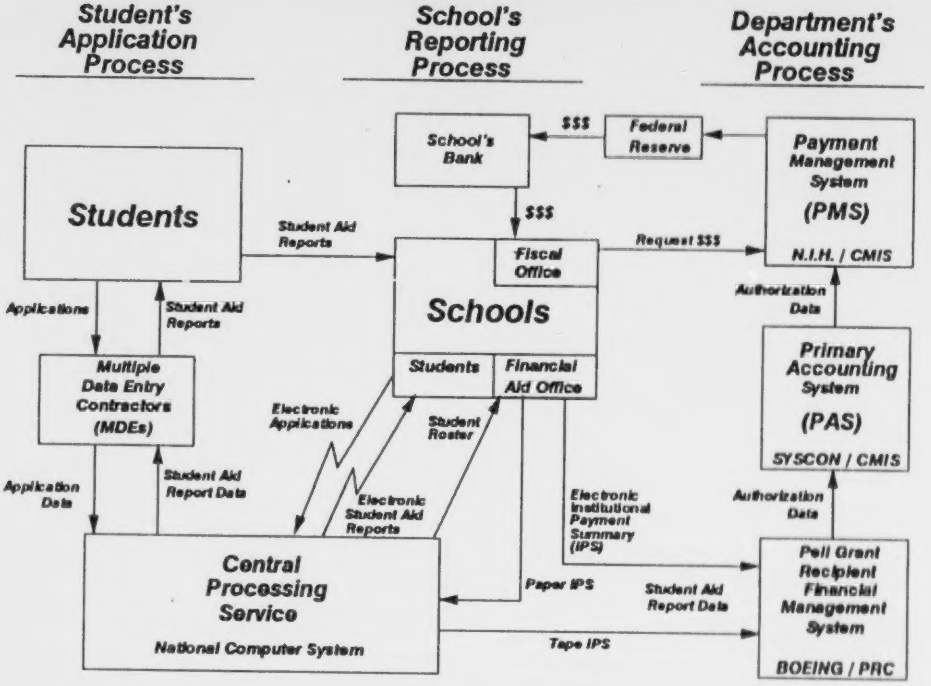
- Surf Solomon Senior Citizens Center
- Haber House Senior Citizens Center

For More Information
Call
718-372-5775

Molloy College
Pell Grant Payments 1980-1993



PELL GRANT SYSTEM


Student's Application Process
School's Reporting Process
Department's Accounting Process
Students
Student Aid Reports
Applications
Student Aid Reports
Multiple Data Entry Contractors (MDEs)
Application Data
Student Aid Report Data
School's Bank
$$$
Federal Reserve
$$$
Fiscal Office
Schools
Students
Financial Aid Office
Request $$$
Payment Management System (PMS)
N.I.H. / CMIS
Authorization Data
Primary Accounting System (PAS)
SYSCON / CMIS
Authorization Data
Electronic Applications
Electronic Student Aid Reports
Student Roster
Electronic Institutional Payment Summary (IPS)
Paper IPS
Student Aid Report Data
Tape IPS
Central Processing Service
National Computer System
Pell Grant Recipient Financial Management System
BOEING / PRC

PELL CONTRACTS

FISCAL YEAR	NCS CONTRACT #300-87-0012	ACT CONTRACT #300-86-0122	CSS CONTRACT #300-86-0124	PHEAA CONTRACT #300-86-0123	ISSC CONTRACT #300-86-0121			TOTAL CONTRACTS
FY 87	$8,976,417	$1,022,256	$3,848,520	$498,780	$187,948			$14,533,921
FY 88	$8,451,427	$1,138,790	$4,055,641	$544,862	$162,880			$14,353,600
FY 89	$7,325,000	$1,055,917	$3,735,907	$450,445	$56,837			$12,624,106
FY 90	$758,519	$142,122	$215,835	$49,473	$0			$1,165,949
TOTAL	$25,511,363	$3,359,085	$11,855,903	$1,543,560	$407,665			$42,677,576

FISCAL YEAR	NCS CONTRACT #PM89002001	ACT CONTRACT #PM89003003	CSS CONTRACT #PM89003001	PHEAA CONTRACT #PM89003002		USAF CONTRACT #PM89003006	CSX CONTRACT #PM89003004	TOTAL CONTRACTS
FY 89	$1,468,028	$688,230	$694,867	$232,628		$355,946	$166,133	$3,605,832
FY 90	$5,620,867	$3,757,947	$6,979,756	$706,987		$968,718	$875,121	$18,909,394
FY 91	$5,495,816	$4,762,243	$9,203,470	$791,946		$2,089,410	$763,353	$23,106,238
FY 92	$2,775,700	$3,945,800	$10,210,015	$692,584		$2,666,704	$0	$20,290,803
FY 93	$531,313	$574,156	$0	$0		$0	$0	$1,105,469
TOTAL	$15,891,724	$13,728,375	$27,088,107	$2,424,145		$6,080,777	$1,804,606	$67,017,735

FISCAL YEAR	NCS CONTRACT #PM92016001	ACT CONTRACT #PM92010001	CSS CONTRACT #PM92010002	PHEAA CONTRACT #PM9201003				TOTAL CONTRACTS
FY 92	$2,143,277	$986,922	$679,978	$524,825				$4,335,002
FY 93 *	$6,763,000	$10,491,000	$8,654,400	$2,772,900				$28,681,300
TOTAL	$8,906,277	$11,477,922	$9,334,378	$3,297,7[illegible]5				$33,016,302

GRAND TOTAL	$50,309,364	$28,565,382	$48,278,388	$7,265,430	$407,665	$6,080,777	$1,804,606	$142,711,614

1. Costs contingent on final closeout by GCS.
2. Costs exclude any pending claims.
3. * FY 93 displays committed/obligated level

Notes for "PELL CONTRACTS"

1. Three three-year contract cycles are displayed—

The first, identified by contract numbers that begin with "#300", covers processing for the 1987-88, 1988-89 and 1989-90 award years.

The second, identified by contract numbers that begin with "#PM8900", covers processing for the 1990-91, 1991-92 and 1992-93 award years.

The third, identified by contract numbers that begin with "#PM9201", covers processing for the 1993-94, 1994-95 and 1995-96 award years.

2. Within each contract cycle, incurred costs are displayed by fiscal year as well as for the total contract costs for each contractor.

3. "NCS" is National Computing Systems which is the Department's Central Processing System (CPS) contractor.

4. The Multiple Data Entry (MDE) agencies are:

ACT—American College Testing Program
CSS—College Scholarship Service
CSX—CSX Commercial Services, Inc.
ISSC—Illinois State Scholarship Commission
PHEAA—Pennsylvania Higher Education Assistance Agency
USAF—United Student Aid Funds

5. While NCS has operated the CPS, during each contract cycle a different contractor was responsible for processing the Federal form (Application for Federal Student Aid—AFSA)—

During the first contract cycle, NCS processed the Federal form in addition to operating the CPS.

During the second contract cycle, CSS processed the Federal form.

During the third contract cycle, ACT processed the Federal form.

Consequently, contract costs for NCS in cycle-1, CSS in cycle-2, and ACT in cycle-3 reflect processing system charges (CPS or MDE) and costs associated with Federal application form operations.

PREPARED STATEMENT OF RICHARD C. STIENER

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to participate in this hearing concerning the Subcommittee's continuing oversight of the Department of Education's Student Financial Assistance Programs. At your request, we investigated to determine if fraudulent activity and serious abuses have occurred within the federal Pell Grant Program, which assists low-income undergraduate students in financing their postsecondary education. In the 1991–92 award year alone, almost $5.8 billion in grants were made to 3.8 million students. Specifically, on the basis of information provided by the Department's Office of Student Financial Assistance, you asked that we investigate alleged fraudulent activity, concerning Pell Grants, within certain not-for-profit parochial schools in the New York City area.

In brief, as recently as June 1993, we testified[1] on participants' abuses of another student aid program—the guaranteed student loan program. Those abuses included false student-loan applications, schools misrepresenting their academic capabilities, lenders making loans to fictitious students, and ineligible students receiving loans. We found these same basic abuses and falsifications in our ongoing investigation of certain yeshivas[2] in the New York City metropolitan area.

The Department of Education identified to us 37 of over 85 yeshivas or yeshiva-operated institutions in the New York City area. It was concerned that the 37 were engaging in potentially abusive misconduct involving the Pell Grant Program. In all 23 institutions investigated thus far, we have found some evidence of the use of false documents to support both the students' Pell Grant applications and the schools' eligibility to participate in the Pell Grant Program. The yeshivas submitted documentation to the Department of Education for (1) "ghost" students—students who never applied for Pell Grants or individuals who never enrolled or attended the yeshivas that used their names; (2) ineligible high school students; (3) individuals whose biographical information was sold to yeshivas by "brokers" for use in obtaining Pell Grants; and (4) misrepresentation of their academic programs and other eligibility criteria. The false documents included Pell Grant applications; supporting documentation for the applications, such as high school diplomas and income verification; academic transcripts and other documentation maintained in students' files; and false documents submitted to the Department of Education for institutional eligibility, such as program curricula and falsified Israeli correspondence documenting offshore schools. At least 6 of the 23 schools used brokers to obtain legitimate information from actual individuals and then used the information to obtain Pell Grants from the Department of Education.

Between 1983 and 1993, the 23 institutions that we investigated—21 yeshivas, 1 private college that entered into agreements with off-site yeshiva-operated sublocations, and 1 community college branch campus that was operated as a yeshiva—obtained over $300 million in Pell Grant funds. They obtained about 60 percent of this—over $197 million—within the last 3 years. (See fig. 1.)

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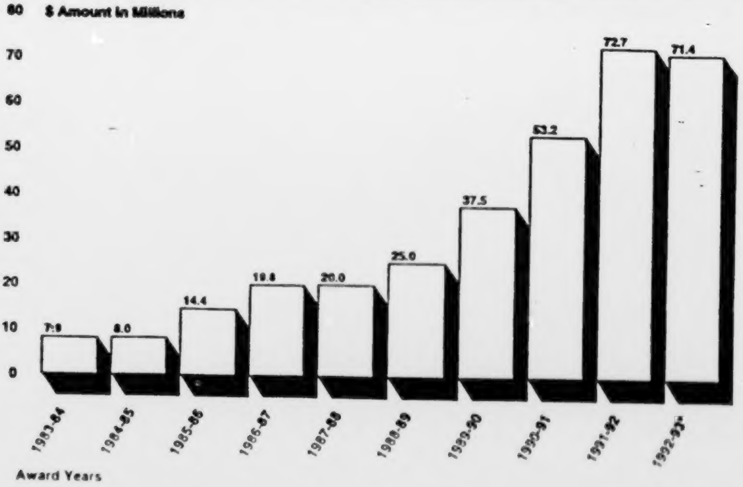
[1] *Direct Student Loans: The Department of Education's Implementation of Direct Lending* (GAO/T–HRD–93–26, June 10, 1993).

[2] "Yeshiva," as defined in the *Random House College Dictionary* (Rev. Ed., 1980) is an Orthodox Jewish school of higher instruction in Jewish learning. The schools that we describe as yeshivas in this testimony fit this definition.

FIGURE 1: 10-YEAR GROWTH IN PELL GRANTS TO 23 YESHIVAS INVESTIGATED BY GAO (1983-84 THROUGH 1992-93 AWARD YEARS)[3]



*The drop in Pell Grants for 1992-93 reflects, in part, termination actions against three of these yeshivas by the Department of Education in 1992. These yeshivas obtained $4.8 million in total for 1991-92

The attached case study (see app. III), concerning one yeshiva, demonstrates most of the situations of Pell Grant falsifications and abuse that we found. The yeshiva used ghost students, ineligible high school students, false high school diplomas and admissions applications, and apparent mail drops as home addresses on Pell applications. It also submitted unsupported documentation concerning its financial status to obtain Pell Grant Program eligibility. In 1984 and 1987, the school submitted an unaudited financial statement for a different institution to continue its eligibility to process and award Pell Grants. The Department of Education accepted those statements and, on their basis, certified the school as financially responsible to continue in the program. Furthermore, on the basis of a 1988 financial statement that reflected a negative cash position and an over $80,000 liability to the Department itself, the Department again determined the seminary to be financially responsible and continued its eligibility for the Pell Grant Program.

USE OF GHOST STUDENTS

Based upon recipient interviews and examination of school records some yeshivas received Pell Grant awards for individuals who themselves never applied for the grants or never enrolled in or attended the yeshivas that used their names. These yeshivas used individuals' names and biographical information to obtain Pell Grants. The yeshivas also used both false documentation and mail drops to facilitate the grant applications.

SAME "STUDENT RECIPIENTS"; DIFFERENT YESHIVAS

Pell Grant "recipient" lists for each of the 37 yeshivas identified by the Department of Education for 6 school years (1987–88 through 1992–93) reflect the attendance of many of the same students at different yeshivas in succeeding years. We determined that 1,335 of the Pell Grant recipients attending the 37 yeshivas were listed as having attended 3 different schools consecutively; 133, as having attended 4 schools; and 7, as having attended 5 yeshivas. One recipient had received nine Pell Grants; and four others, eight grants each.

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[3] Not all schools received Pell Grants in all years.

We interviewed 19 of the 140 Pell Grant recipients who were listed as having attended 4 or more yeshivas. Twelve of the 19 stated they did not know they had been awarded Pell Grants at two or more yeshivas that received Pell grants in their names. Two of the 19 stated they had not attended any of the four or more yeshivas that used their names. Of the remaining five, four either could not name the yeshivas they had attended or refused to be interviewed, while the fifth stated he had attended all four cited yeshivas.

An elderly Russian couple we interviewed stated that they had attended two yeshivas in the United States. Yet, three other yeshivas had obtained Pell Grants for them. According to their statements to us, files from the two yeshivas that we examined contained false academic transcripts and other documentation supporting the Pell applications. Three other yeshivas received Pell Grants in the name of a Russian woman who told us that she had attended only one yeshiva. We reviewed student files from one of the three yeshivas and found false transcripts, financial aid records, and other documents.

Finally, one Pell recipient, who told us that she never attended any of four yeshivas that had obtained Pell Grants in her name, is a daily outpatient at a mental health clinic. She has been under long-term care; and her medical history reflects only a high school education, with no postsecondary education.

FALSE DOCUMENTATION/APPLICATIONS USED TO SUPPORT GHOST STUDENTS

On the basis of the interviews with 10 of the 14 recipients' we determined that materials from six yeshivas included false financial aid records, transcripts, admissions applications, and other documents. When we showed one Pell recipient the financial aid forms and other documentation pertaining to her from one yeshiva's files, she stated that her signature had been forged and she had not attended that year. In addition, we submitted certain documents to the Forensic Services Division laboratory of the U.S. Secret Service. They included Pell Grant applications and other supporting documents from student files with handwriting exemplars from three recipients. The laboratory concluded that the signatures on 14 of the 30 analyzed documents were not those of the recipients.

The Department of Education requires that participating institutions request a Financial Aid Transcript for previously attended postsecondary schools to help ensure, among other things, that an applicant is not receiving more than one Pell Grant in an award year. Thus a student's file at a school should contain a copy of transcripts that reflect the prior schools attended and any financial aid received. However, the records we examined from eight yeshivas showed that in most cases admissions applications were false by not accurately reflecting the previous postsecondary schools for which the students obtained Pell Grants. Although the Pell recipients had been awarded grants at four or more yeshivas, the admissions applications at each yeshiva reflected that the students had not attended any other postsecondary schools.

At two other yeshivas, the reported high schools of attendance and dates of graduation on the admissions applications for some Pell Grant recipients differed from yeshiva to yeshiva. In one instance, the diploma copy in the student file was from a different high school than that listed on the application to which it was attached.

USE OF MAIL DROPS AS HOME ADDRESSES

Some yeshivas used mail drops—or locations other than actual home addresses—to receive the Pell Grant applications. We identified 63 Pell Grant recipients for 5 yeshivas who had listed the home address on their applications as that of an all-boys elementary school. However, not only were the Pell recipients at this address supposedly of postsecondary age, many were women. On two occasions, we attempted to interview the administrator of the elementary school to determine if anyone lived there and why the address was listed as a home address on 63 Pell Grant applications. On both occasions, he refused to be interviewed. Using a home address from a previous Pell Grant application, we located and interviewed one of the purported students at his apartment. He stated that he had lived and received mail at the apartment address for the previous few years and had not received mail at any other address. He too refused to be further interviewed.

We also determined that the home address of a yeshiva administrator for one yeshiva was listed on 17 Pell Grant applications for 2 yeshivas, including his own. In another instance, the location and mailing address of 1 yeshiva was listed as the home address for 25 Pell Grant recipients at 8 other yeshivas. Yet another yeshiva rented a post office box that was then listed as the home address for over 370 Pell Grant recipients at that school.

USE OF INELIGIBLE HIGH SCHOOL STUDENTS

Although high school students are not eligible to receive Pell Grants, four yeshivas certified postsecondary yeshiva attendance by Pell "applicants" who were high school students. For example, one yeshiva that we examined had at least 30 high school students that received Pell Grants. We found high school diplomas in the files of two of the four yeshivas to support the eligibility of the Pell Grant recipients who were still in high school. In addition, the U.S. Department of Agriculture's Free School Lunch records showed that some of the high school students listed as Pell Grant recipients were receiving free school lunches, which are unavailable to high school graduates. New York State welfare department records also identified some of these Pell recipients as enrolled in high school.

The Department of Education determined that some of the Pell recipients had also been certified to the local school district as being high school students eligible to ride on district school buses and receive district textbooks and library privileges. For example, the administrator for a yeshiva who was also an official for the high school located at the yeshiva, submitted both false high school diplomas and false yeshiva admissions applications to the Department of Education during a Pell Grant Program review. As high school administrator and reviewing official, he had signed school lunch program applications, letters to the welfare department, and Social Service forms attesting that some of the same students were enrolled in high school during the same time periods when they were receiving Pell Grants and were certified as high school graduates. The mother of one Pell recipient from this yeshiva told us that, during the same time period that the school received a Pell Grant in her daughter's name, her daughter had been enrolled in a high school in a county different from that reflected in the yeshiva's supporting Pell Grant documentation.

A second yeshiva's files contained copies of diplomas made from a single original document. We obtained copies of what appeared to be seven false high school diplomas from the yeshiva's student files that were used to support the Pell eligibility of its students. We submitted these to the Forensic Services Division laboratory of the U.S. Secret Service for analysis. The laboratory confirmed that the diplomas had been created from the same original document, not photocopied from different individual diplomas. Additionally, local welfare department records for two of the seven Pell Grant recipients contained letters from administrators from two other area high schools. The letters reflected that the recipients were enrolled in high school up to 2 years after the dates cited on high school diplomas.

Pell Grant recipients at a third yeshiva were also listed in the records of the Agriculture Department's Free Lunch Program as high school students receiving free school lunches.

An administrator for a fourth yeshiva admitted enrolling high school students and obtaining Pell Grants for them but claimed they were eligible under the Ability to Benefits examination. However, the use of Ability to Benefits examinations does not apply in this situation because federal regulations prohibit high school students from obtaining Pell Grants. This yeshiva has since been fined $87,000 by the Secretary of Education for this misconduct.

PELL GRANT BROKERS

We determined that brokers—individuals who recruit student financial aid applicants and applicant information—are involved in defrauding the Pell Grant Program. One brokers' student files that we examined contained false employment and income verification documents that were the basis for Pell Grant awards. Another broker offered money for information to be used on applications for ghost students. A third broker offered payments of money by the schools to induce individuals to apply for Pell Grants and enroll in ineligible programs.

We reviewed records that the Immigration and Naturalization Service had seized from an individual who brokered students and students' biographical information for at least six of the yeshivas. This broker was an immigration processor who helped recent immigrants obtain resident alien status. While processing them, he had the immigrants sign blank Pell Grant applications and related documentation. His records indicated that, in some instances, he provided several hundred dollars to the immigrants when the Pell Grants were awarded. The broker's files indicate that he secured Pell Grants for 120 purported students, totaling $352,639 for the 1990–91, 1991–92, and 1992–93 school years.

Some of the broker's student files contained false letters of employment or false W–2s to verify employer and income amounts for Pell Grant recipients on their applications. We interviewed nine employers cited on W–2s and in letters found in the broker's files or at the yeshivas where the broker had placed the students. The employers told us that some of the Pell Grant recipients had never worked for them and were unknown to them. They also stated that in some instances although the Pell Grant recipients had worked for them at one time, the recipients were not employed at the time for which a false letter was used to establish Pell Grant eligibility. In other cases, employers stated that although the Pell Grant recipients had worked for them, the letters were unauthorized and they were unaware of who wrote them. Furthermore, on the basis of the employers' statements, the annual incomes cited in the letters were false.

When reviewing student files from this broker involving three yeshivas, we also determined that representations made on federal income tax verification worksheets[4] were false. We interviewed the broker's secretary and only employee. She told us that, at the broker's instruction, she had typed the letters of employment/income verification and that she and the broker had signed the letters without the employers' consent or authorization. Further, she filled out blank Pell Grant applications, some were signed and some were not, from files that the broker had provided her. Additionally, she stated that she had seen checks[5] payable to the Pell Grant applicants and that these individuals had picked up the checks from the broker.

The broker was indicted for falsifying immigration documents but fled the United States before his trial. Prior to the broker's flight, his counsel expressed the broker's willingness to cooperate by providing information about Pell Grant fraud by the yeshivas and other brokers.

We identified a second broker[6] in a closed-case file from a federal law enforcement agency. In consensually monitored conversations, the broker offered an informant several hundred dollars for Pell Grant applications filled out for ghost students. Department of Education records disclosed that a Pell Grant was later awarded in the name of an individual whose biographical information had been provided to the broker by the informant. A yeshiva received Pell Grants to offset the recipient's alleged academic costs and maintained an academic record for the purported student. The record listed classes, grades, and other enrollment information. However, when we interviewed the purported student, she told us that she had never attended or heard of the school and had never applied for a Pell Grant.

Our concern that this school might be using brokers and dealing in fraudulent Pell Grants was heightened during an unannounced visit to an off-site office for this yeshiva. We observed yeshiva personnel working with financial aid applications, one of which was a blank Pell Grant application that bore the signature of an alleged applicant. A person working in the office identified herself as the yeshiva's bursar. We also observed file cabinets with labels that related to Pell Grant documents and open boxes on the floor filled with what appeared to be student files. On a subsequent visit, the bursar acknowledged to us that blank, signed Pell Grant applications were being filled out but refused to answer questions concerning this activity.

We identified a third broker who recruited elderly Russian immigrants for at least two yeshivas. According to two Russian immigrants, this broker provided payments of $500 and $600 per year to people for enrolling in English-as-a-Second-Language classes. Although this broker denied acting as a broker or recruiter for the schools, he acknowledged setting up a school location for one of the schools and referring Russian immigrants there. He also acknowledged that the school paid stipends to students of $600 per year. According to one of the Russian immigrants who we interviewed about yeshivas, the only reason the immigrants enrolled was to obtain the cash payments.

INELIGIBLE PROGRAMS AND FALSIFIED ELIGIBILITY CRITERION

INELIGIBLE PROGRAMS

We reviewed approximately 50 applications for Pell Grants for students of a 4-year private college. We learned that the college had entered into an agreement with eight yeshivas to provide a 3-year Associate of Arts degree under the auspices of the college. These 8 off-site schools maintained, in total, 44 locations in New York

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[4] U.S. Department of Education Federal Student Aid Programs Income Verification Worksheet, OMB Form No. 1840–0132.

[5] We obtained some of the original checks from the broker's files that had been seized by the Immigration and Naturalization Service. To assist in our investigation, the Subcommittee subpoenaed the involved yeshiva's records. Subsequently, a fire occurred at the yeshiva, and the yeshiva's officials stated that the subpoenaed records had been destroyed. However, Fire Department officials, during their inspection of the fire scene, saw no evidence that any records near the site of the fire.

[6] This broker provided Pell Grant recipients' biographical information to one yeshiva that also utilized the services of the broker who fled the country.

City to provide instruction to a largely immigrant population. A college official explained that this population could not read or write English; therefore, yeshiva personnel had filled out the Pell Grant applications for the students.

According to the college's course catalog, a program for an Associate of Arts degree requires 64 credits with a minimum of 48 credits in liberal arts courses. Further, the program syllabi provided by the yeshivas to the college indicated that eight English courses were to be taken in the first two semesters. These were to be followed by other courses, including philosophy, political science, art history, human biology, and music. However, according to the seven students we interviewed who were participating in the college's off-site programs, they were primarily provided with English classes and a small complement of Jewish history and culture.

The programs began in 1989; however, the first 3-year class had an 83-percent withdrawal rate. This withdrawal rate—and the determination that the off-site programs differed substantially from the home campus programs—caused the Department of Education to determine the off-site programs as ineligible to participate in Pell. Additionally, the New York State Education Department found that several resumés for teachers of the off-site programs had listed degrees from schools that did not offer such degrees. We also determined that 14 Pell recipients from the college's off-site programs had received Pell Grants in their names for at least 3 other yeshivas. However, when we interviewed 4 of these 14 students, they stated that they had not attended the college's yeshiva-operated off-site programs. Yet the college's off-site programs made them ghost students by maintaining student files for them that included academic transcripts and financial aid applications.

In addition, we noted that a yeshiva-operated branch of an area community college had a similarly high withdrawal rate. Over 3,000 students had withdrawn from the branch after receiving Pell Grants for 1 to 3 years and before obtaining a degree. According to our review of Department of Education records, over 90 of the 140 applicants who received Pell Grants at 4 or more yeshivas obtained Pell Grants at the community college program. Eight of the 13 interviewed Pell Grant recipients from the program told us that they had not attended the program. One of the eight stated that the signatures on the documents were forgeries; another stated that she had filled out the forms but had never attended. Of the remaining five we interviewed, only one stated she had attended the program, while two refused to answer questions, and two could not remember the names of schools they had attended.

FALSE ELIGIBILITY CRITERION

Four of the 23 investigated yeshivas reported to the U.S. Department of Education that they maintained campuses in Israel. To satisfy an eligibility criterion, one yeshiva submitted to the Department of Education a purported letter from the Israeli Department Director of the Ministry of Religious Affairs. The U.S. Department of Education, in part, used the certification letter to determine the school's Pell Grant eligibility for an off-shore site in Israel. However, on reviewing the letter, the Director told the U.S. Department of Education that his signature had been forged. The Department's records show that between the 1988-89 and the 1992-93 school years, the yeshiva was authorized to obtain $1,640,738 in Pell Grants for its Israeli-based students. The Department of Education has since taken an administrative action against the school, in part on the basis of the forged letter. A decision on the Department's action is pending before a Department Administrative Law Judge.

The Israeli Director also raised doubts about another school's certification. He stated that the signature on another certification, although appearing genuine, was that of an official who may not have been in the signatory's position on the date of the letter. Israeli Knennest (Parliament) records reflect that the letter's signer was not in that position on the letter's date. The Israeli Embassy in Washington, D.C., has since verified in writing to the U.S. Department of Education that this individual was not in the position on the letter's date. We did not investigate the Israeli certifications of the two remaining schools.

CONCLUSION

Schools participating in the Pell Grant Program are required to meet certain criteria, including academic accreditation and financial certification, and sign an agreement acknowledging that with the Department of Education. However, according to our September 1991[7] report on student financial aid, the Department has failed to adequately screen or review schools for participation eligibility. Nothing we have seen in our current investigation would indicate that this has changed.

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[7] *Student Financial Aid: Education Can Do More to Screen Schools Before Students Receive Aid* (GAO/HRD-91-145, Sept. 27, 1991).

One of the first lines of defense in dealing with problems in schools participating in the Pell Grant Program, or any student aid program, is to have strong "gatekeeping" procedures for ensuring that only schools that are able to provide the education they advertise can participate, and can continue to participate, in the programs. Such procedures include licensing, accreditation, eligibility, and certification requirements for the schools.

Some of these procedures were included in the 1992 Amendments of the Higher Education Act, although they were not in effect when the Department approved the schools that were included in our investigation. For example, the amendments provide that an institution will lose its eligibility if more than 85 percent of its revenues come from federal student aid sources, such as Pell Grants and guaranteed student loans. Further, provisions in the 1992 amendments call for strengthening relationships between the Department, states, and accrediting organizations. Part H of the Higher Education Act, among other things, defines a minimum set of review standards that accrediting organizations must follow. The Department and each state are to enter into an agreement to conduct or coordinate the review of institutions in the state that are, or want to be, eligible to participate in federal student aid programs. These regular reviews are a step toward eliminating the possibility that the fraudulent and abusive practices we found in our investigation will continue or occur at all. Indeed, we believe the 1992 amendments are a good start for strengthening the Department's approval of schools. However, the Department must begin to demonstrate much needed leadership in marshalling its own resources and enlisting the support of the states to protect students and the federal investment in student financial assistance programs.

This concludes our prepared statement. We would be pleased to answer any questions you may have.

APPENDIX I

METHODOLOGY

In response to our request for information on the most serious problems of potential abuse in the Pell Grant Program, the Department of Education's Office of Student Financial Assistance for Region II in New York City identified 37 postsecondary parochial schools, some of which it was then reviewing. These schools were yeshivas or institutions whose sublocations were operated by yeshivas[a] that provide both religious and secular instruction. We investigated 23 of the 37 schools on the basis of the information provided to us. In each of the 23 schools examined, we investigated to determine if fraudulent or abusive conditions existed. The depth of our investigation ranged from subpoenaing all the documents of five yeshivas to interviewing students, reviewing student files and forensic analysis of documents. We did not attempt to uncover every fraudulent or abusive activity that may have occurred in a particular school. Nor did we attempt to establish that the same conditions existed in every school. Our investigation of these 23 schools is continuing. To date, the investigation has focused on the misconduct of the schools and not the conduct of their students.

We began our ongoing investigation in February 1992. We interviewed officials or reviewed documents from the U.S. Department of Education's Office of Inspector General (OIG) and Office of Student Financial Assistance, coordinating our investigative efforts with this second office in New York City. We also interviewed officials and reviewed documents from the U.S. Department of Agriculture; Immigration and Naturalization Service; U.S. Attorney's Office for the Southern District of New York; Rockland County District Attorney's Office, New York; New York State's Department of Social Services, Office of State Comptroller, and Education Department; subject institutions, various school personnel, and students; and others.

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[a] We investigated eight off-site locations of a private college located in Long Island, New York, and one branch location of a community college located in the New York City metropolitan area.

APPENDIX II

Background of Pell Grants

THE PELL GRANT PROGRAM

Pell Grants (formerly Basic Educational Opportunity Grants) are to help undergraduate students from low-income families finance their postsecondary education. Authorized in 1972, the first grants were awarded to full-time freshmen students in fiscal year 1973.[1] The maximum Pell Grant was $2,400 for the 1991-92 award year.[2] The grants are fully funded by the federal government. These are awarded on the basis of a student's cost to attend a school, including tuition and fees; room and board; books; supplies; transportation; miscellaneous expenses; and, in some cases, child or dependent care and expenses related to disability.

For award years 1973-74 through 1991-92, almost 46 million students received Pell Grants totaling $52 billion. With few exceptions, the program has experienced steady growth since the first grants were made in 1973. (See fig. II.1.)

Figure II.1: Growth in Pell Grant Awards (Awards Years 1973–74 Through 1991–92)

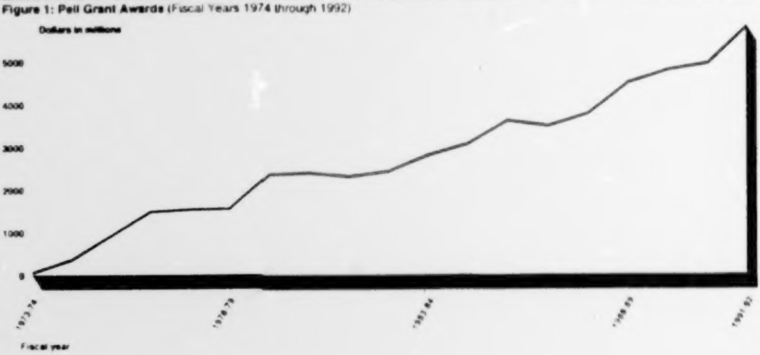

Figure 1: Pell Grant Awards (Fiscal Years 1974 through 1992)

ELIGIBILITY FOR PELL GRANT RECIPIENTS

Department-approved schools determine students' eligibility, process, and award the grants on the government's behalf. Grants are awarded on the basis of an eligible student's cost of attendance at the particular school, including institutional and noninstitutional charges. According to the Department of Education, a student's financial need is based on the student's financial condition, as determined from information reported on the Pell application and supporting documentation submitted to the school. Thus, it is of critical importance that the financial information certified on the application be truthful and correct.

In the 1991–92 award year, $5.79 billion in grants were made to almost 3.8 million students. The average Pell Grant was $1,530 during the 1991–92 award year, and about a third of all undergraduates received a Pell Grant that year. (See fig. II.1.)

In addition, to be eligible for a Pell Grant, undergraduate students must be U.S. citizens or eligible noncitizens; not be enrolled in a secondary school; have a high school diploma, have a GED (general educational development) certificate, or demonstrate an ability to benefit;[3] be enrolled at least half time; make satisfactory academic progress and not be in default on a federal guaranteed or Perkins student loan;[4] and sign a statement that they will use the proceeds only for educational purposes. Students' eligibility generally continues as long as the student maintains satisfactory scholastic progress. Students must apply annually for each Pell Grant.

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[1] The Pell Grant Program was authorized and incorporated into the Higher Education Act by the Higher Education Amendments of 1972.

[2] An award year is a 1-year period of time from July 1 of one year to June 30 of the next. Award year 1991-92 is the period July 1, 1991, through June 30, 1992.

[3] Students lacking a high school diploma may receive a Pell Grant if they have the ability to benefit from the education program in which enrolled. This may require applicants to pass a test to measure their aptitude to successfully complete the program.

Numerous schools participate in the Pell Grant Program—6,855 schools in the 1991–92 award year, most of which were 2-year public schools. Participating schools must meet certain eligibility criteria, including academic accreditation and financial certification, and sign an agreement with the Department of Education. However, according to our September 1991 report (GAO/HRD–91–145), the Department's OIG, and a federal review team, the Department has failed to adequately screen or review schools for participation eligibility.

In our September 1991 report, we identified six requirements that some states were using in varying degrees to license schools that could be applied to strengthening the Department's eligibility and certification process. For example, some states were using outcome measures such as student withdrawal rates and school completion rates. Other states were requiring schools' financial statements to be independently audited, rather than allow schools to certify their own statements as the government required.

Some of these requirements were included in the Higher Education Amendments of 1992, although they were not in effect when the Department approved the schools that were included in the investigation discussed in this testimony. As an example, the amendments provide that an institution will lose its eligibility if more than 85 percent of its revenues come from federal student aid sources, such as Pell Grants and guaranteed student loans.

Also, provisions in the 1992 amendments call for strengthening relationships between the Department, the states, and the accrediting organizations. Part H of the Higher Education Act, among other things, defines a minimum set of review standards that accrediting organizations must follow. The Department and each state are to enter into an agreement to conduct or coordinate the review of institutions in the state that are, or want to be, eligible to participate in federal student aid programs. The Department is to reimburse the states for their expenses in conducting these reviews, but the reimbursement is dependant on federal funds being appropriated. We believe the 1992 amendments are a good start for strengthening the Department's approval of schools.

PELL GRANT PARTICIPATION BY SCHOOLS

Of the approximately 3.8 million Pell Grant recipients attending the 6,855 participating schools in the 1991–92 award year, almost 50 percent attended schools offering at least 4 years of study. About 15 percent attended schools with less than 2 years of instruction—mostly proprietary schools offering vocational courses of study. Most Pell Grant funds went to students attending public schools (59 percent in fiscal year 1990); and students attending proprietary schools received 22 percent of Pell Grant funds.

A school's requirements to participate in the Pell Grant Program include the school's accreditation by a Department-recognized accrediting agency and certification by the Department of the school's administrative and financial responsibility. Most schools that offer a degree or certificate program of at least 1 year's duration are eligible. These include private and public 2- and 4-year degree-granting schools, proprietary (for profit) schools located in and authorized by a state, and postsecondary vocational institutions that have provided postsecondary education for at least 2 years.

DEPARTMENT OF EDUCATION'S SCHOOL APPROVAL PROCESS

One of the first lines of defense in dealing with problems in schools participating in the Pell Grant Program, or any student aid program, is to have strong "gatekeeping" procedures—for ensuring that only schools that are able to provide the education they advertise can participate, and can continue to participate, in the programs. The Higher Education Act, as amended, specifies that for schools to participate in the Pell Grant Program, they must be (1) licensed by a state agency, (2) accredited by an agency recognized by the Secretary of Education, and (3) determined eligible and certified by the Department.

The Department relies heavily on the work of state licensing and private accrediting agencies in determining which schools can participate in federal student aid programs. State licensing plays a broadly defined role as a consumer protection tool that may include overseeing the content of schools' advertising and maintenance of student records. Accrediting agencies—or private organizations recognized as authorities on curriculum and other education requirements—are to ensure the quality of education offered by the schools. The Department's eligibility determination includes ensuring that schools are properly licensed and accredited; the certification process includes evaluating a school's financial responsibility and administrative capabilities.

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[4] Title IV of the Higher Education Act, as amended, provides for several kinds of guaranteed loans, including Stafford loans, and Perkins loans, which are low-interest loans made by schools with most funds coming from the government.

In September 1991, we reported (GAO/HRD-91-145) that the Department lacked adequate controls to prevent both financially weak schools and schools that did not provide promised training from participating in federal student aid programs. The Department's procedures for approving schools failed to screen schools adequately, in part, because of weaknesses in its procedures for determining schools' eligibility and for certifying schools. Its OIG and a joint Office of Management and Budget and Department of Education review team have also reported problems with the Department's gatekeeping procedures for approving schools.

The joint review team reported that the Department was unable to initiate and conduct school eligibility renewals that are required to be done every 4 years. In 1990 alone, the Department failed to conduct about 3,500 required eligibility renewal reviews, and in many cases a school's eligibility has not been reviewed for more than 15 years. The review team attributed this failure to the Department's limited staff resources.

APPENDIX III

BETH ROCHEL SEMINARY—A CASE STUDY

According to its own representation and the records of the Department of Education, the Beth Rochel Seminary is a postsecondary institution located at 145 Saddle River Road, Monsey, New York. Our investigation determined that it is collocated with the Beth Rochel School for Girls, an elementary and secondary school for girls in grades 1 through 12. The yeshiva obtained Pell Grant funds of $1,042,986 for the 1990-91 school year and $639,100 for the 1991-92 school year. In the 10 years between 1983 and 1992, Beth Rochel obtained $4,800,237 in total Pell Grant funds to provide a mentoring independent study course of instruction. According to the Beth Rochel Seminary School Bulletin, independent study is planned and organized through Learning Contracts which allow students to study at convenient times and places, and at a pace suited to them, because students have jobs or family responsibilities that conflict with the schedule of regular campus-based classes.

We investigated Beth Rochel Seminary to determine if it had intentionally defrauded the U.S. Department of Education of Pell Grant funds and had made false representations to the Department during a Pell Grant Program review. We determined that the yeshiva had (1) used ghost students and submitted false Pell Grant applications and other documentation for them, (2) used ineligible high school students as grant recipients and used false high school diplomas and admissions applications to support their eligibility, and (3) submitted false eligibility criteria by submitting improper financial statements to the Department of Education. In September 1992, because of the yeshiva's misconduct, the Department permanently terminated the yeshiva from participating in Title IV programs. That termination and a fine were affirmed by an Administrative Law Judge in October 1993.

DEPARTMENT OF EDUCATION CONCERNS

Representatives of the U.S. Department of Education, Office of Student Financial Assistance (OSFA), provided us a list of Pell Grant recipients they questioned after their 1992 program review at Beth Rochel Seminary. They believed that these grant recipients were enrolled in high school when they obtained Pell Grants. Obtaining Pell Grants while enrolled in secondary schools, or when below the age of compulsory student attendance under state law where the postsecondary school is located, is prohibited.[5]

OSFA program reviewers compared high school busing and school district library records from a local school district with the Pell Grant disbursement records for the Beth Rochel Seminary for the 1990-91 and 1991-92 award years. Through this comparison, OSFA identified 30 Pell Grant recipients believed to be ineligible for the Pell Grants obtained in their names. OSFA identified eight of these recipients as ineligible because they were not above the age of compulsory attendance in the state

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[5] 20 U.S.C. § 1091(a); 34 C.F.R. §§ 668.7(a)(2), 668.8(a)(1)(iii) (1992).

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of New York. Additionally, the seminary's administrator, submitted to OSFA during the program review what appeared to OSFA to be false high school diplomas. These diplomas were to support the Administrator's assertion to the program reviewers that these Pell Grant recipients were high school graduates and therefore eligible. According to the Department of Education, these diplomas had been signed by various school administrators, including the seminary's.

FALSE REPRESENTATIONS

Use of Ghost Students

We determined that Beth Rochel Seminary used at least 9 ghost students to obtain Pell Grants. Nine of the 18 seminary students we interviewed told us they had never applied, enrolled or attended Beth Rochel Seminary. However, the Seminary obtained Pell Grants in their names and maintained student files that contained false transcripts and financial aid documents.

Five of these were also reported to have received Pell Grants for attendance at 3 or more yeshivas. These five told us that they had never attended Beth Rochel Seminary. We submitted student files from the seminary for two of the 5 students for analysis by the Forensic Services Division laboratory of the U.S. Secret Service. The laboratory concluded that these two grant recipients did not sign 10 of the 12 documents found in the files. In addition, none of the applications for admission to the seminary for the five students reflected attendance at other yeshivas.

Our review of cancelled checks subpoenaed from the seminary's bank accounts revealed checks issued in the names of many Pell Grant recipients for the 1990–91 and 1991–92 school years. Those checks were drawn on the Beth Rochel School for Girls (high school) account. We interviewed four of these Pell Grant recipients. These four stated that they had never attended Beth Rochel Seminary. When shown the checks, three of the four stated that they had never seen or received them and that the endorsements on the backs were not their signatures; the fourth stated that she had never been paid to attend a postsecondary school.

Use of Ineligible High School Students to Obtain Pell Grants

Beth Rochel Seminary made false statements to the Department of Education by enrolling at least nine high school students to obtain Pell Grants. The yeshiva also provided false documents such as false diplomas and, admissions applications concerning these high school students to OSFA during its recent Pell Grant Program review to support the students' and the yeshiva's eligibility for Pell.

We accompanied representatives of the Department of Agriculture, Food and Nutrition Service, on a school lunch program review of Beth Rochel School for Girls—an elementary, junior high, and high school—located at the same address as Beth Rochel Seminary. We were met by an individual who identified himself to us both as the principal and administrator of the high school. Using OSFA's list of Pell Grant recipients who received free high school busing, we identified five whom, the Administrator had represented as being in high school during the same period, to obtain free school lunches/milk for them, paid for by the U.S. Department of Agriculture. The Administrator's signature as reviewing official appears on all the free school lunch/milk applications. The five Pell Grant recipients were all students in the tenth or eleventh grades at Beth Rochel School for Girls in the 1990–91 and 1991–92 school years when Pell Grants were disbursed in their names to Beth Rochel Seminary.

We also reviewed welfare case files of the New York State, Department of Social Services, Rockland County Office, concerning families of five purported Seminary students. Four of the five case files contained either letters on the Beth Rochel School for Girls letterhead or School-Age Children verification forms submitted to the Rockland County Department of Social Services. These documents—used to help recertify the families' eligibility for welfare, food stamps, Medicaid, and other social services—asserted that the four Pell Grant recipients were enrolled as full-time high school students at Beth Rochel School for Girls. The seminary's administrator, as high school administrator, had signed and certified most of these documents. The four recipients were also students in the eleventh or twelfth grade when they received Pell Grants.

We interviewed the mother of yet another Pell Grant recipient who stated that her daughter was still in high school during the time period when a Pell Grant was issued in the daughter's name. According to the mother, the daughter did not enroll in a postsecondary program until the 1992–93 school year. However, the seminary obtained a grant for the daughter in the 1991–92 school year.

False High School Diplomas and Admissions Applications

At least three of seven high school diplomas that the Administrator submitted to OSFA during a Pell Grant Program review are false. The diplomas were issued in the names of three students who had not yet graduated from high school when the seminary represented that they had graduated and obtained Pell Grants in their names. While the diplomas themselves were not dated, two were attached to admissions applications for Beth Rochel Seminary that contained the Beth Rochel High School graduation dates. We also found four false admissions applications for high school students, in the files of the Seminary for which no diploma copies were attached.

We reviewed three additional false admissions applications (separate from above) that listed false graduation dates and/or high schools attended. For example, one Pell Grant recipient we interviewed who disclaimed attending the seminary provided a sworn statement that she had attended United Talmudic Academy high school in New York. However, the admissions application for the seminary listed Beth Jacob, located in Israel, as the high school of attendance. Additionally, based on her mother's statement to us, the admissions application for another recipient of the seminary was false. It cited her daughter as enrolled in a different high school than the one she had listed and included a false graduation date.

During a termination hearing held by the Department in July 1993, seminary officials claimed that the diplomas presented to the Department of Education were for a 4-year Hebrew high school program consisting exclusively of religious study for students between 12 and 16 years old. They further claimed that the ultra orthodox Jewish community considers this course of instruction to be the completion of high school; thus they claimed that the diplomas presented to the Department of Education were not false. However, under New York State law the diplomas are invalid and have no legal status as evidence of graduation from secondary school. The law requires that non-public secondary schools provide a course of instruction determined to be equivalent to that provided by public schools. A course of instruction that is strictly religious would not fit New York's definition of a secondary school education and therefore does not meet federal regulations governing secondary schools.[6]

Use of Mail Drops on Pell Grant Applications

Beth Rochel Seminary also used mail drops—or locations other than permanent mailing addresses—on Pell Grant applications. Federal regulations mandate that a student's home address (residence) be listed on application for student aid. However, the Administrator's home address was cited on 17 Pell Grant applications as the permanent mailing address of the applicants. The applications were for Pell Grant recipients at Beth Rochel Seminary and Beth Medrash Eeyon Hatalmud (located one block from the seminary), both of which we included in our investigation. The seminary obtained 6 Pell Grants through this address. Further, the grant applications of 7 additional Beth Rochel Seminary students, as well as 18 other Pell Grant recipients at 7 other yeshivas, cited B'nos Jerusalem Seminary, another of the yeshivas that we investigated, as their permanent mailing address.

Insupportable Eligibility Criterion

Financial Statements Submitted to the Department of Education

Postsecondary institutions must meet certain eligibility criteria, including financial certification, to obtain and continue eligibility in the Pell Grant Program. The Department of Education's financial certification process includes evaluation of a school's financial responsibility on the basis of a profit and loss statement and balance sheet, which the Secretary may require to be audited, or a financial audit report.[7] In 1984 and 1987, Beth Rochel Seminary submitted unaudited financial statements for the Beth Rochel School for Girls to continue the seminary's eligibility to process and award Pell Grants. The Administrator certified these two statements. The Department accepted these statements and, on their basis, certified the seminary as financially responsible to continue in the program.

Through our review of the institutions' financial statements for 1984, 1987 and 1988, the accountants workpapers and statements to us, and available records of the Beth Rochel School for Girls, we determined that the financial statements submitted to the Department did not disclose that the seminary (1) shared some facilities and personnel with the girls school, (2) maintained no accounting records separate from the girls school, and (3) commingled its funds in the bank accounts of the girls school. The seminary also both did not explain a significant difference in the financial conditions illustrated in the 1987 and 1988 statements submitted to the Department (see table III.1) and claimed as expenses a questionable cost normally not associated with an independent study mentoring program. Despite these conditions and a 1988 financial statement that reported both a negative cash position and an over $80,000 liability to the Department itself, the Department determined the seminary to be financially responsible and continued its eligibility for the Pell Grant Program.

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[6] 20 U.S.C. §1141(d), 20 U.S.C. §2891(21), New York State Elementary and Secondary Education School Program Regulations §§100.2(c), 100.5(a)(2).

[7] 34 C.F.R. §668.13(a)(1)-(2)(1992).

TABLE III.1: COMPARISON OF SOME LINE ITEMS FROM 1987 GIRLS HIGH SCHOOL STATEMENT AND 1988 SEMINARY STATEMENT

	1987, girls school	1988, seminary
Total assets	$ 696,482	$351,072
Fixed assets	479,825	0
Revenue (tuition)	1,174,173	676,800
Expenses/Expenditures	1,580,758	617,973

The accountant who audited the 1988 statement rendered a qualified opinion because he was unable to satisfy himself as to the amount listed "Due From Beth Rochel of Monsey Inc.," and thus could not express an opinion on the Statement of Change in Financial Position. Nevertheless, the Department did not sufficiently question the changes and concluded that the seminary was in "healthy condition" and eligible to participate without condition. It approved the eligibility despite that the seminary had a negative cash balance of $40,657 and still owed a $80,256 liability to the Department for prior misconduct. Subsequent to the approval, the seminary obtained approximately $2.8 million in Pell funds before it was terminated from the program in 1992.

Submission of Insupportable Financial Statement as Eligibility Criterion

According to the accountant, all the Pell funds received by the seminary were transferred to the girls school operating account and disbursed from there. We reviewed the Seminary's and girls school's bank records and verified the transfer of Pell funds to the girls school account. A full disclosure would have revealed both that all the seminary's funds were commingled with those of the girls school and that the seminary retained no separate books and accounting records.

The 1988 statement reported that the seminary had paid over $115,000 for its rent, utilities, and maintenance. The statement did not disclose that the building in which the seminary was purportedly housed is owned by the Administrator of the girls school and the seminary. According to the accountant, the seminary paid no actual rent; rather this was an allocation of the seminary's share of the rent. However, the allocation was based on a questionable representation made by the seminary concerning the amount of square footage that was used solely by the seminary in the high school building. The seminary represented that a 5,000 square-foot auditorium located within the high school was to be used "exclusively" by the seminary, an independent study program. The accountant stated that when he was given a tour of the facility, he questioned how an auditorium located within an elementary and high school would not be used by the elementary and high school students. He stated that he told the Administrator to provide him a statement in writing that the auditorium was used exclusively by the seminary. During the Department of Education program review, Department personnel were also given a tour of the seminary-used space within the high school, which did not include an auditorium.

We also have concerns about the legitimacy of other major expenses represented to the accountant and reported on the statement. One large expenditure reported on the statement is $87,400 for "Scholarships and Stipends." However, our interviews with four purported students disclosed that they never received the $500 stipend checks issued in their names, and never attended the Beth Rochel Seminary. The Seminary also paid in 1988 $75,000 to B'nai Arugath Habosem, another yeshiva we investigated, for "program and curriculum development" of the seminary's academic program. The Department of Education fined B'nai Arugath Habosem $87,000 in 1993 for also using high school students to obtain Pell Grants.

We asked the accountant why he failed to fully disclose the questioned items. On two occasions he stated to us that he had telephoned the Department official who had requested the audit; informed him of the problems at the seminary; and as a result, intended to render a qualified opinion. According to the accountant, the official told him "just send them in." When we asked the Department official if such a conversation had taken place, he stated that he did not recall ever speaking to this accountant.

HISTORY OF TITLE IV PARTICIPATION WITH DEPARTMENT OF EDUCATION

Beth Rochel Seminary has had a 14-year history (1979–92) of difficulties in obtaining and maintaining its eligibility to participate in Title IV programs. The seminary has been certified seven times; and excluded (including its final termination) four times, all for noncompliance and false representations.

TABLE III.2: BETH ROCHEL TITLE IV CERTIFICATION OCCURRENCES

	Found eligible	Eligibility withheld/denied	Reinstated	Recertify
Date	Oct. 1979	Dec. 1979	Nov. 1980	
Date		Dec. 1981	Sept. 1983	
Date	Oct. 1979	Dec. 1979	Nov. 1980	
Date		Jan. 1984	Nov. 1984	
Date				Dec. 1986
Date				Jan. 1989
Date				Nov. 1991
Terminated	Sept. 1992			

Beth Rochel Seminary, a division of the Congregation Beth Rochel, began offering postsecondary education in 1973. In October 1979 the Department of Education found the seminary eligible to participate in Title IV student assistance programs, including Pell Grants, using the 3IC method[8] of eligibility. However, in December 1979, the Department withdrew the seminary's eligibility because the seminary never actually met the 3IC standards.

Between the seminary's reinstatements in November 1980 and November 1984, the Department withdrew its eligibility twice: first for never meeting the 3IC standards and later for discrepancies found in its 3IC documentation. The Department had also required it to repay $52,268 for the seminary's previous 3IC violations. The Department recertified the Seminary in November 1984 even though the Seminary failed to pay the liability. Although recertifying the seminary three times between 1986 and 1991, the Department terminated its participation in Title IV funding in 1992.

TERMINATION BY DEPARTMENT OF EDUCATION

On September 23, 1992, the Department terminated the school from participation in any Title IV Higher Education Act programs for falsely obtaining Pell Grants for ineligible high school students, maintaining false student records, failing to meet fiduciary standards (failure to pay a previous Department fine), and other program noncompliance. The Department also fined the yeshiva $270,000 as a result of this conduct. The yeshiva appealed the termination and fine to a Department Administrative Law Judge who affirmed the Department's termination, but redetermined the fine at $74,000.

PREPARED STATEMENT OF JAMES B. THOMAS, JR.

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to share with you the perspective of the Office of Inspector General on fraud and abuse in the Federal Pell Grant program.

As you well know, a great deal of attention and concern has been devoted to the abuses in the Federal Family Education Loan program because of the price tag for defaulted loans, which has reached as high as $3 billion annually, and the victimization of students by unscrupulous school owners, which has left many students liable for federally insured loans they cannot repay. Many of the same abuses that this Subcommittee highlighted in its 1991 report on the loan programs—poor or inadequate gatekeeping practices, financial controls, data systems, and oversight of participating schools—also plague the Federal Pell Grant program.

However, the same level of attention, up until now, has not been directed to the Federal Pell Grant program. Why? Because Pell is the "silent program." There is no visible or vocal victim to cry out as in the loan programs; an obvious victim—the Federal taxpayer—does not know when these grant funds have been wasted on poor-quality training or ineligible programs, or simply stolen outright by school administrators or owners who make unsupported cash draws from their Federal Pell accounts or fail to make refunds in order to supplement their cash flow. Also, there has been no "red flag" indicator of abuse equivalent to the default rates used to screen out schools from the loan programs.

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[8] 3IC was a method of obtaining eligibility for unaccredited institutions by demonstrating to the Department of Education that 3 accredited institutions would accept the unaccredited institution's credits on transfer.

There is a need for scrutiny of fraud and abuse in the Federal Pell Grant program, and I commend this Subcommittee for looking at this program at a time when the Department of Education is developing a new direct lending program and has been looking to the Federal Pell Grant program as a model for the delivery under that program. The cost of the Pell program to Federal taxpayers is enormous and growing. It was estimated that in 1991, $5.3 billion was awarded to approximately 3.7 million recipients, while in 1993, $6.2 billion was awarded to 4.1 million recipients—an increase of approximately 17% in funding and 11% in recipients in only a two-year period.

The Federal Pell Grant program is, by its very design, vulnerable to fraud and abuse. A United States Attorney recently commented on the administration of the program while explaining why he had declined to prosecute a proprietary school owner for false statements uncovered in one of our investigations. He noted that ". . . the manner in which the funding of the Pell Grant program is administered by the Department of Education would impress most jurors as a program designed to be abused." Another Federal prosecutor noted that a proprietary trade school's owner who was prosecuted for embezzling Pell funds and failing to make refunds of Title IV grant and loan funds "operated the school as his own personal bank."

The areas I would like to discuss regarding the Federal Pell Grant program are:

- —the status of improvements to the gatekeeping process since the 1990 hearings;
- —opportunities to improve controls over grant authorizations and payments to schools;
- —opportunities to improve the oversight of the Department's contracts for administration of the key aspects of the Pell system; and
- —opportunities to improve the Department's oversight of institutions of higher education responsible for the day-to-day administration of the Pell Grant program.

Also, an additional characteristic of the Federal Pell Grant program that fosters fraud and abuse is that there are no clear outcome performance measures for the program. The stated purpose of the program is to provide a basic grant that, in combination with reasonable family and student contribution and supplemented by other Federal student financial assistance, will meet at least 75 percent of a student's cost of attendance at the student's chosen institution of higher education. There is no limit on the total amount of funding a student can receive or the number of years a student can receive Pell Grants, or a clear understanding of outcomes for different types of education.

We recently issued a Management Improvement Report that recommended that funding for vocational training be rethought with an emphasis on investing limited Federal education funds on what works best in terms of helping the recipients of the training get jobs. We suggested that labor market needs of employers and the success rates of schools in placing graduates be considered in studying different funding approaches for students enrolled in vocational training programs. However, we need to take this idea further, and make some hard decisions as to what outcomes we as a Nation should be demanding from all participants—institutions, students and others—for the investment of our scarce resources.

BACKGROUND

Before I address in detail our particular areas of concern with respect to the Federal Pell Grant program, allow me to share with you some general thoughts about fraud and abuse in it and other student financial assistance (SFA) programs. As you know, the Department has experienced a $1.2 billion dollar shortfall in the Pell Grant program. I believe this shortfall can be attributed, in part, to a serious and widespread abuse by short-term proprietary trade schools who artificially increase their course length by taking advantage of the lax rules on conversion from clock hours to quarter and semester credit hours. This abuse allowed many such schools to gain eligibility for the Pell Grant program, despite the fact that their educational programs were in reality significantly shorter than the required six months in course length, or to inflate the Pell Grant funds they received. This was done by a mere paper change in course length, rubber-stamped by an accrediting body, when in reality absolutely no new course material or additional training was added.

This abuse has only recently been corrected by new, very specific clock-to-credit-hour conversion regulations. The Department certainly deserves credit for developing and implementing these new regulations. However, we cannot lose sight of the fact that while the matter was left so long uncorrected, millions of dollars were wasted in the Pell Grant program, with the Federal taxpayer the loser.

I cite this example of abuse because I believe it illustrates two basic principles that I want to stress in this testimony. First, by and large, we know what the major problems are in the Federal student assistance programs. The challenge we face is to implement effective corrections, rather than allowing entities, which are not the intended beneficiaries of these programs, to continue to manipulate the process for their own monetary gain without being held accountable for measurable outcomes. We must keep our focus on the students, who are the intended program beneficiaries, and the Federal taxpayers.

Second, it may be inviting to think that, in the context of reinventing government or otherwise, we can do away with prescriptive regulations. However, we must be cautious when applying this approach in an area or to an industry where there is an identified pattern of abuse. While addressing the very real need to reinvent the way we are doing business, it is critical to focus on the safeguards needed to prevent abuse of taxpayer funds and students. The clock-credit hour conversion issue demonstrates that the easy availability of huge sums of Federal SFA funds provides motivation for some unscrupulous program participants to look for gaps in the existing laws and regulations in order to enhance their own financial interest rather than that of the students or the public. In rendering their decisions, courts will require that regulatory or legislative requirements are clear, and we must ensure that such requirements exist to protect taxpayers and the intended beneficiaries of the SFA programs.

As one Department Administrative Law Judge noted:

> ". . . The programs of student financial assistance are created to assist needy students. . . . Their purpose is not to create in the government the role of a silent partner in the operations of the schools. When federal funds are placed in the hands of the institution it is to facilitate the delivery of those funds to eligible students. It is in no way intended that the school be a beneficiary to this relationship and if in fact . . . the schools depend upon financial assistance for students in order to meet their stated objectives and perform their services, this is only an incidental benefit not to be confused with the intended purposes and objectives of the programs."

* * * * *

I believe that our focus on the front-end gatekeeping processes in recent years, and our continual review of the Department's progress in those areas, can have the most effect in keeping the potentially abusive schools out of the programs. Because access to the Federal Pell Grant program is determined by the same gatekeeping processes as the loan programs, I have been asked by this Subcommittee to testify on our assessment of the Department's progress in implementing corrective actions since the 1990 hearings.

GATEKEEPING

As I testified before this Subcommittee in February 1990 during its investigation into abuses in the Guaranteed Student Loan program (now the Federal Family Education Loan program), my office embarked on a major effort beginning in 1988 to assess and evaluate the causes of fraud and abuse in the SFA programs, and, where necessary, recommend legislative, regulatory or management improvements aimed at eliminating these abuses.

We began with the gatekeeping function because gatekeeping is the statutorily mandated process used by the Department to determine which schools are allowed to participate in both the SFA grant and loan programs. This determination is based on whether schools meet accreditation, licensure and certification standards. This screening of initial applicants is crucial to the Department's administration of the SFA programs, because schools that make it through the screening process then have annual access to billions of dollars in Federal grants and loans. It is also difficult and resource-intensive for the Department to terminate a school once it has begun participating in the SFA programs. Therefore, if problem schools can be prevented from beginning participation in the programs, significant program fraud and abuse can be avoided.

THE TRIAD

Although gatekeeping is ultimately the Department's responsibility, its effectiveness depends upon the performance of a triad of players, consisting of both governmental and nongovernmental entities. These entities are the State licensing agencies, private nonprofit accrediting agencies, and the Department's Office of Postsecondary Education.

The key roles of each of these entities are as follows.

- State licensing agencies grant legal authorization for schools to provide postsecondary education in their State.
- Accrediting agencies are recognized by the Secretary of Education to evaluate the quality of education and training provided by the schools, and to certify that educational programs offered by a school meet established standards.
- The Department's role is to:
  —Evaluate the policies of the accrediting agencies to determine if they should be recognized by the Secretary as reliable authorities on the quality of education;
  —Determine that schools meet the statutory eligibility requirements for SFA participation, including State licensure, accreditation status, and minimum course length requirements; and
  —Certify that the schools have the financial resources to provide the education services offered and the administrative capabilities to manage the SFA programs.

PRIOR AUDIT REPORTS

During 1989 and 1991, we issued audit reports on the three segments of the gatekeeping triad: 1) accreditation, 2) eligibility, and 3) certification. Based on the collective deficiencies noted, we concluded that the Department's gatekeeping process was ineffective in preventing problem schools from participating in the SFA programs.

The key deficiencies identified in each of our audits were as follows.

Accreditation

Schools must be accredited to be eligible to apply for participation in the SFA programs. Therefore, the Department's responsibility is to assure that it recognizes only truly reliable accrediting agencies. Our audit report issued in February 1991 concluded that the Department's accrediting agency recognition process did not include adequate research and analysis to assure that only reliable agencies were recognized by the Secretary. Overall, we found that the Department did not hold accrediting agencies accountable when they accredited schools that had high default rates or that abused the SFA programs, especially those that accredited a large number of deficient occupational, vocational, trade and technical schools.

Eligibility

Although eligibility determinations are a function of the Department, our audit report on the institutional eligibility process, issued in March 1991, determined that the process relied primarily on the varying standards of the accrediting agencies and State licensing agencies. A school that met its State licensure requirements and was able to find an agency that would provide it accreditation, was virtually assured eligibility to apply for the SFA programs. Thus, standards for eligibility were actually being determined by entities outside the Department.

Because of this overreliance on various State and accrediting agency standards, we concluded that there were no consistent standards of quality that schools must meet to be statutorily eligible to apply for participation in the SFA programs. We also concluded that, because of control weaknesses at the Department, some schools that did not have State and accrediting agency certifications were incorrectly determined eligible and began participation in the SFA programs.

Certification

Certification is the last step a school must complete before it can begin participation in the SFA programs, and it does not rely on the other entities in the triad. Therefore, from the Department's perspective, certification is arguably the most vital component of gatekeeping. Certification is a two-step process, including analyses of a school's financial responsibilities as well as its administrative capabilities. We issued separate audit reports on each step of the process. Together these audits concluded that the Department's certification process did not screen out problem schools and, therefore, was not adequate to protect students or the interests of the taxpayers.

The financial analysis process certified schools that failed the financial tests by requiring minimal sureties that were inadequate to provide any protection in the event of school closure. We also determined that the minimal sureties were not always collected when schools abruptly closed without providing all instructional services to the students.

The administrative certification process certified schools with extremely high withdrawal rates and inadequate satisfactory progress standards. These factors were often contributors to eventual high default rates.

FOLLOW-UP REVIEWS

Because of the Department's recognition of the importance of progress in this area, we initiated follow-up reviews of the gatekeeping process to determine the Department's progress in implementing corrective actions as recommended by my office. Many of our recommendations and those of this Subcommittee requiring legislative changes were subsequently provided for in the 1992 reauthorization of the Higher Education Act. Because some of the new authorities provided by the Congress are not enforceable until final regulations are published, our reviews have focused on those actions that were within the control of the Department to correct.

However, before I discuss these, I must advise this Subcommittee of my concerns with the Higher Education Act technical amendment legislation that was recently passed by the Senate. I believe that, if enacted in its present form, this legislation could place the students and taxpayers at risk and prevent the Department from developing effective financial responsibility regulations. This Subcommittee and my office have worked hard to ensure that the Department has and uses effective tools to monitor and provide oversight of the program. These Senate-passed amendments dictated a 1:1 asset-to-liability current ratio for schools at a time when the Department is proposing, through the public negotiated-rulemaking process, to regulate a 1.25:1 ratio.

Of greater significance is that these amendments would allow an institution to compute its current assets, used in determining this ratio, using equity in facilities and even the valuation of the property, net of depreciation. This defeats the purpose of having a current ratio that provides some assurance that an institution is at least in a financial position to pay student refunds. It is also not in accordance with Generally Accepted Accounting Principles. I am very concerned that this proposed legislation, if enacted, will obstruct the Department's ability to effectively monitor a school's financial responsibility.

Regarding the new gatekeeping legislative authority provided by the 1992 amendments to the Higher Education Act, I can report that the Department has provided extensive resources and worked diligently to draft and publish regulations. My office also has dedicated significant resources over the last year to assist the Department in this challenging task. Although I am unable to report on the effectiveness of the legislative changes, because the implementing regulations have not yet been finalized, the proposed draft regulations should result in major improvements in the gatekeeping process.

The results of our limited follow-up reviews focused on the key recommendations from each of our audit reports that we believe should have been implemented and for which the Department has reported it had completed corrective actions. Our reviews were hampered by the fact that the problems of missing school files and access to complete and accurate management information continue to plague the Department. As a result, reliability of some of the data provided by the Department could not be verified.

Although the Department has made significant strides to improve gatekeeping, our follow-up review disclosed that there are important issues in accreditation and financial responsibility that need additional attention. In addition, the Department still has problems with missing files, as well as inaccurate management information. Thus, gatekeeping is still not as effective as it could be.

Accreditation

Our ability to assess the effectiveness of the corrective actions taken by the Department to improve the accrediting agency recognition process was hampered by the fact that the National Advisory Committee on Institutional Quality and Integrity (NAC) did not hold its last two semiannual hearings, because the terms of many of the members had expired and the task of replacing them had not been completed. The NAC is responsible for advising the Secretary about which accrediting bodies he should recognize.

The Department has informed us that new members have been nominated, but not yet confirmed, and therefore the third consecutive semiannual public hearings will also not be held. Department officials have also indicated that they are redesigning the process for recognition and rerecognition of accrediting agencies to comply with the new tougher standards provided by the 1992 Higher Education Act reauthorization.

We found that the Department has implemented many of our recommended corrective actions regarding the planning for, and performing of, its reviews of accrediting agencies. These actions should ultimately result in the accrediting agencies being held accountable for their accrediting decisions. However, until the NAC is reactivated and the Department has the opportunity to present its findings before the NAC, we are not able to assess the effectiveness of the Department's corrective actions.

Certification

Our follow-up review of the certification process determined that the number of new schools denied certification, as well as schools selected for recertification that were referred for termination, has dramatically increased.

During our initial audit, we had found that approximately 95% of schools that applied for certification were granted approval to participate in the SFA programs. Our current review has found that, over the last year and a half, 36% of the new schools applying were denied initial certification and approximately 20% of the schools subject to recertification were referred for termination proceedings.

For the financially weak schools which the Department monitors, it has increased the amounts of sureties it requires these schools to post. In certain circumstances, the Department has begun requiring schools to enter into escrow agreements that require the SFA funds to flow through an independent escrow agent that does not release all, or a portion, of the funds until they are earned by the school.

Despite these improvements, our review determined that the financial certification process is not consistently providing adequate protection for the students and taxpayers. Current regulations generally state that the Secretary considers an institution not to be financially responsible if it had: 1) an operating loss over at least its two most recent fiscal years; 2) a deficit net worth for its latest fiscal year; or 3) at the end of its latest fiscal year, a current ratio of less than 1:1.

Contrary to its assertions, we found that the Department certified new schools that did not meet these requirements. The Department also advised us that, for participating schools that do not meet the financial tests, it required sureties at a minimum of 25% of annual SFA funding, a standard we found was not consistently applied. For example, from a sample of 13 schools that failed the financial responsibility test, the Department required sureties of less than 25% from six schools.

In summary, we found that the Department certified or recertified schools even though the schools failed factors of financial responsibility. In addition, sureties were not equal to the minimum levels required in accordance with departmental policies. We also found that some schools that failed recertification and had not responded to the Department's offer of sureties or escrow agreements, were not expeditiously referred for appropriate administrative action.

For the certification process to be effective and provide the necessary protection to students and taxpayers, the Department must consistently apply its standards and adhere to its policies. We recognize that there may be exceptions to the rule; however our follow-up review causes us to believe that, with certain enhancements, the Department can keep them to rare exceptions.

* * * * *

Although improvements have been made in the gatekeeping functions, the Department should continue to focus on improving this process to ensure that these checks and balances, which were designed to protect the student and the taxpayer, are as effective as they can be. We must do this to protect the integrity of all of the SFA programs, including, of course, the main subject of this hearing—the Federal Pell Grant program.

THE FEDERAL PELL GRANT PROGRAM

Many of the issues that we reported on to the Subcommittee in the 1990 loan hearings are, of course, similar to the issues we have found in Pell. The reason I say of course is because we are dealing with many of the same players—particularly the schools and students—and the same gatekeeping process. In the Federal Pell Grant program, it appears to us that the Department would have more direct control over accountability, because it does not rely on third-party entities, like guaranty agencies in the Federal Family Education Loan (FFEL) program, to carry out many of the monitoring and oversight responsibilities.

In reality, we found that the same problems that have hampered the Department in carrying out its responsibilities in the loan program are affecting its effectiveness to administer the Federal Pell Grant program. Our experience to date has identified issues with: 1) controls over the grant funds between the Department and the schools; 2) contractual arrangements through which the Department administers various aspects of the delivery system; and 3) the Department's oversight of schools.

The Federal Pell Grant program is often called the foundation of financial aid programs. The program is designed to help the neediest of students, and grants received under this program do not have to be repaid. For this program, a student's need is based on the expected family contribution to a student's education, as well as other factors such as the cost of attendance at an institution. In fiscal year 1993, $6.2 billion was appropriated for the Federal Pell Grant program for students attending approximately 6,300 institutions. In award year 1992–93 there were approximately 5.2 million Pell-eligible applicants, of whom approximately 4.1 million, or 80%, became Pell grant recipients. The maximum annual Federal Pell Grant is set by Congress and is $2,300 for the 1993–94 academic year, down from $2,400 from the 1992–93 academic year.

As I previously stated, unlike the Federal loan programs, there is no "red flag" warning indicator that readily identifies abuses in the Federal Pell Grant program. Abusive schools that we have reviewed have become proficient in recruiting large numbers of Pell-eligible students. Our interviews with students who have been victimized by unscrupulous recruitment and enrollment practices clearly suggest that many Federal Pell Grant recipients are either unaware of the amount of their grants or if Federal funds were even received in their behalf. Because students appear to have no significant role or financial interest in the Federal Pell Grant process, they exercise no check and balance over the process. Some students have not complained about the quality of education or misrepresentations by schools, because they are not required to repay Federal Pell Grants.

Because of problems identified by audits and investigations, as well as the large amount of funding appropriated for the Federal Pell Grant program, we initiated an audit of the Federal Pell Grant financial aid delivery system. Although this audit is still in process, our initial work has disclosed several control weaknesses and abuses for which we anticipate providing the Department with recommendations for improvement.

In order to comprehend how some of the abuses in the system have been allowed to occur, one must have a basic understanding of the Federal Pell Grant delivery system and of the various participants and reporting mechanisms in this process.

FEDERAL PELL GRANT DELIVERY PROCESS

In general, the Federal Pell Grant delivery process begins (as do the Campus-Based and Federal Family Education Loan programs) with the student's submission of the Free Application for Federal Student Aid (FAFSA). The student mails the FAFSA to the contractor acting as the Department's Federal application processor or to any one of three other Department Multiple Data Entry contractors (MDEs) that are approved FAFSA processors. The Federal application processor or an MDE enters the FAFSA data and transmits it to another contractor, the Central Processing System (Central Processor).

The Central Processor performs edits and data matches, computes the expected family contribution, and then transmits the results back to the Federal application processor or MDE, which then mails a Student Aid Report (SAR) to the student, who can take the SAR to the school of his/her choice. In the application process, the student can list three schools on the FAFSA, free of charge, that the student is considering attending. As discussed later, it is very important to take note that all of the schools listed on the student's FAFSA may also receive rosters and tapes with the student's data directly from the Central Processor.

A somewhat similar, but electronic, process can be used by some students through the Department's Electronic Data Exchange, whereby the school directly receives processed data from the Central Processor or its servicer and prints out an Electronic Student Aid Report (ESAR), which must be signed by the student. Schools do not need the SAR or ESAR to make an initial payment of a Federal Pell Grant, but must have some form of output document showing the official expected family contribution from the Central Processor (the rosters and tapes with the student's data from the Central Processor as noted above).

An important part of the SAR or ESAR is the Payment Voucher that the institution will submit to report individual payments to the student. These Payment Vouchers identify miscellaneous information by student, including the amount paid to date and the remaining amount to be paid, and are batched and submitted by the school to the contractor for the Department's Pell Grant Recipient and Financial Management System (PGRFMS or program office) at least three or six times a year, depending on the authorization amount, with the Institutional Payment Summary. If the number of Payment Vouchers justifies it, a school can file as many as 60 Institutional Payment Summaries for an award year. All Payment Vouchers for an award year are to be received by September 30 of that year, although adjustments can continue to be made for underpayments and overpayments.

According to the Department's SFA Handbook, the PGRFMS serves two basic functions: 1) It enables the Department to track a school's need for funds as the award year progresses and to adjust the school's authorization on that basis; and 2) it provides a Student Payment Summary to the school to reconcile the school's total expenditures at the end of the year with the records of the eligible students who were paid by the school.

Schools obtain funds from the Department for Pell disbursement to students through the use of the Education Department Payment Management System (EDPMS or payment office). The EDPMS has three major functions:

—to expedite the flow of cash between the Federal government and the schools;

—to transmit institutional disbursement data back to the Department's awarding offices; and

—to manage cash advances to institutions.

Schools are required to submit monthly or quarterly reports, depending on the amount of the school's authorization, with summary expenditure and drawdown amounts. However, institutions have as long as 21 months after the close of the academic year to submit final reports for any authorization, which significantly delays the payment office reconciliations.

A school receives an initial Federal Pell Grant authorization based on an estimate of the Federal Pell Grant funds the school will need to cover initial grants to students. The school may either credit the grant to the student's account or disburse the grant to the student. The amount of the school's initial authorization at the payment office is determined by the Federal Pell Grant program office using the PGRFMS. The program office bases a school's initial authorization for the approaching award year on the unclosed, unreconciled, current award-year authorization. The Department then adjusts an institution's initial authorization based on the school's subsequent Institutional Payment Summary and Payment Voucher submissions.

Schools draw down cash for the Title IV programs by requesting a single lump sum amount for all Title IV authorizations and receiving a single advance from the payment office. The payment received is to be used for programs as needed, within the authorized amounts of the Federal Pell Grant and Campus-Based programs. Cash on hand is not to exceed the immediate disbursement needs for each program, which for the Federal Pell Grant program is defined as the amount that will be disbursed to or on behalf of students for grants.

As mentioned earlier, our overall review of the Federal Pell Grant program is not complete, but experience to date signals several areas of concern regarding the administration of the program. These are:

—the controls over the flow of grant funds between the Department and the schools;

—the contractual arrangements through which the Department administers various aspects of the delivery system; and

—the Department's oversight of the schools.

While all of these areas are subjects of ongoing audit work, the results of which will be reported on in the coming months, I would like to outline for you today some of the areas we believe present the greatest potential for abuse.

CONTROLS OVER FEDERAL PELL GRANT FUNDS

Authorization and Payments to Schools

The Pell Grant funding process relies very heavily on the integrity of schools in their timely reporting to two different management systems within the Department. These two reporting systems are not designed to be easily reconciled.

A school usually begins the award year with an initial authorization of 50 to 60 percent of its unclosed prior award-year authorization. By statute, a school is allowed to draw down as much as 85% of its initial authorization 24 days prior to the first day of class without submitting any supporting documentation. The Department adjusts an institution's initial authorization as it periodically reports both the amount it has already disbursed to Federal Pell Grant recipients and the amount yet to be paid for the award year (based on expenditure data reported on the Institutional Payment Summary).

ADVANCE AUTHORIZATIONS. The large amount of advance funding made available to schools exposes the program to potential abuse by unscrupulous school owners at the very beginning of the Federal Pell Grant delivery process. For example, schools may receive Pell funding for students enrolled even though these students may never attend class. While an institution must return the funds it has received for "no shows" within 30 days after classes begin, it may have use of that money for nearly 2 months at the taxpayer's expense.

Our audits and investigations, as well as program reviews, show a history of schools failing to report student withdrawals and no-shows. Last month, we issued an audit report on a college that consistently failed to make necessary Federal Pell Grant adjustments arising from student withdrawals and no-show students on a timely basis. In May 1992, the school had signed a repayment agreement to repay the Department approximately $300,000 covering excess Federal Pell Grant funds received by the school as of March 31, 1992. Our audit found that the school had almost $400,000 in additional excess cash as of December 31, 1992, a little more than six months after signing the repayment agreement. This also demonstrates the Department's apparent ineffectiveness in monitoring a school's lax Federal cash management practices, even once they are identified.

In another example involving a recently completed investigation, it was disclosed that school officials submitted the required Institutional Payment Summary along with the individual Federal Pell payment vouchers. However, the investigation determined that many of the Federal Pell vouchers were for "no show" students or students who had withdrawn from the school, and that the school failed to report a reduced Federal Pell Grant award for the students due a Pell Grant refund. In essence, the school had access to more funds than it was entitled to receive.

The school owners were able to syphon $650,000 from the Federal Pell Grant program through the Pell's "cash first, document later" payment system. The owners used the Pell funds drawn for a variety of business and personal expenses. The owners pled guilty to SFA fraud and income tax evasion charges. Each was sentenced to serve 18 months imprisonment and 3 years probation and they were ordered to make a total restitution of $1.1 million.

What is particularly alarming is that this fraud came to our attention not because of any controls in the Pell process, but because the school owners also submitted bogus Federally insured loan applications for real former students, and forged their names on the loan checks. The victims of the loan fraud complained when they were asked to repay the loans. Undoubtedly, the loss to the Federal government would have been much larger, or possibly still ongoing, had the school owners limited their fraudulent activity to the Pell program and/or used phantom students rather than real people in the loan fraud scheme. This is a real concern, as more and more schools rely on Pell Grants as they lose their access to the Federal loan program due to high student loan default rates, but maintain their eligibility for the Pell program.

Indeed, once a school receives its Pell authorization, it can simply draw down money directly from a Federal account using the same type of PIN number you use at an ATM machine to draw money out of your personal bank account. There is no requirement that a particular student for whom money is drawn down be identified prior to the money being drawn down by the school. Because of the ease with which a school is authorized to draw down large amounts of funds for "potential" students, our audits, investigations and inspections have identified numerous instances of schools drawing down cash in excess of their Federal Pell Grant program needs.

A recent OIG audit at a school identified over $2.1 million in excess cash at the end of our audit period. Although the school offset the excess cash during our fieldwork and now appears to have an adequate system in place to properly manage Federal cash, I am concerned that the Department had never take action to safeguard Federal funds given to this school. This school's disregard for or inability to properly follow the Department's drawdown and reporting policies and procedures had been reported on in Departmental program review reports, as well as OIG audit reports, covering each award year since 1982. I believe that this school should have been put on a reimbursement system of funding long before this latest audit.

As shown above, a great potential for abuse lies in the system's reliance on the good faith of the school to correctly estimate its cash needs and timely and properly report student status changes and thus expenditures in the Institutional Payment Summary. The adjustments that are made to a school's authorized funding level throughout the year are based on the information it chooses to report, the accuracy and timeliness of which are subject to little, if any, control or monitoring by the Department. Schools are essentially permitted to establish their own current-year authorizations.

The OIG continues to become aware of institutions (primarily proprietary institutions) that draw Federal funds in advance of immediate need and use such funds for other than their intended purpose. These schools have had access to funds beyond their level of actual expenditures because of the pooling concept used to advance funds to schools and the fact that there can be three years of funding authorizations open at one time. We believe that, based on all of the individual audits and investigations that have identified instances of excess cash, this is a national issue. In fiscal year 1992, excess cash was identified as an issue in about 2,400 of the approximately 6,400 audit reports issued by the OIG. It also was identified as an issue in about 220 of the approximately 700 program reviews that were issued during the same time period.

Clearly, the few prosecutions that we have in this area and the administrative penalties imposed by the Department as a result of our audits and the Department's program reviews have not been a deterrent to this illegal activity. I believe that the Department has relied too heavily on this after-the-fact inspection to report on and quantify this problem, rather than improving the delivery system controls, to assure that it rarely occurs.

DUPLICATE PAYMENTS. Also of great concern to us is that there does not appear to be a control to prevent different schools from drawing down duplicate grants for the same student, or to prevent students from receiving duplicate grants. As long as the school has a listing from the Central Processor identifying the student as a potential enrollee, the school can receive forward funding for that student. Even worse, though, our investigations are showing that there are not adequate controls in the Federal Pell Grant delivery system to prevent duplicate Payment Vouchers from being submitted by two or more schools supporting Federal Pell Grants awarded to the same student.

According to information from Departmental program officials, there are currently no computer edit checks built into the Pell system that would identify a student who was reported to have received a Federal Pell Grant at more than one institution during the award year. Therefore, it is possible for the award of duplicate Federal Pell Grant awards to go undetected. The Department should institute a system edit check to preclude individuals from being authorized more Federal Pell Grant funds than they are entitled to receive in an award year.

INITIAL AUTHORIZATION "JUMP STARTS." The Department's funding process also permits schools to translate current-year errors into excessive initial authorizations for the following year. Since a school's initial authorization for the upcoming award year is based on its current-year authorization and enrollment figures, unreported changes in student status will give it a funding "jump start" in the fall. We will provide the Department with recommendations for improving the authorization process during the course of our audit of the Federal Pell Grant program and during our participation at the Department's core accounting redesign task force meetings.

Closeout and Reconciliation Process

In addition to the system problems with authorizing and disbursing funds to institutions, we are also concerned that the system is more easily abused due to the Department's lack of effective procedures for reconciling authorization and expenditure information and thereby assuring that funds owed the Department are returned.

A 1988 joint OIG and Department report identified the problem of lack of reconciliation between the program and the accounting systems. This report noted that although the source expenditure data for both systems was the institution, the information was generally maintained by different departments within the institution. Consequently, expenditure data frequently differed between the two systems. At that time, no reconciliation of expenditures existed between the two systems, and the report acknowledged that differing expenditure totals may result in an incorrect balance of cash-on-hand at the institution. Our current survey has found that the Department is still not reconciling expenditure data between the two systems.

The problem with the lack of reconciliations of expenditure information between the two systems was especially apparent during our recent experience with the Department in resolving one of our audits. Our audit, which was fully sustained by the program office, disclosed that a school owed the Department approximately $760,000 in excess cash as of December 31, 1989. The school agreed with our finding, had spent the funds on operations, and was working with the program office to negotiate a repayment plan.

In September of 1992, we found that the Department's payment office advised the program office that its records showed that as of December 31, 1989, there were no funds due the Department, and that the Department actually owed the school $5,000. The confusion, caused by dual reporting systems, was finally resolved, and the institution has signed a repayment agreement and is making payments to the Department. However, it is still advance funded, and is not on a reimbursement system of funding (requiring proof of Pell Grants disbursed by the institution), although it owes the Department over $1.2 million for all of its liabilities.

A recently completed investigation found that the Department's inability to reconcile the two systems contributed to the ease with which two school owners were able to steal over $650,000 in Pell Grant funds. This investigation demonstrated that if the Department were to perform a simple comparison of the information schools report to the two systems, the results could reveal irregularities.

The Department does have several opportunities during the course of an award year to reconcile institutional payment information. As I previously noted, the payment office receives monthly or quarterly financial reports of a school's program expenditures and cash-on-hand, while the program office receives reports at least three to six times a year. Although they contain comparable information, few if any of the reporting periods coincide. Our audit is still ongoing and therefore it is premature to speculate on what our recommendations may look like. However, a basic question that still needs to be answered is why two different financial reporting requirements are placed on schools.

Another problem that our survey has disclosed is that educational institutions are not required to submit reports promptly to close their accounts. Institutions have 21 months after the close of an award year to submit final reports to the payment office. Allowing such a lengthy close- out period makes the final accounting extremely difficult and extends the period that Pell funds are susceptible to abuses. In addition, we have found a lack of an audit trail and inadequate documentation for some year-end adjustments. Some adjustments to Pell funding levels are made based on nothing more than a telephone call and a summary document from the institution.

DOCUMENTATION REQUIREMENTS. Faulty documentation procedures have also compromised the effectiveness of OIG investigations of schools participating in the Pell Grant program. In the course of several investigations we have found false and misleading entries on the financial reports that schools are required to submit to the Department each quarter. In these cases, the school official who has signed a report often casts the blame for the discrepancies on the financial aid consultant who has been hired by the school to prepare the report. A lack of appropriate certification by the consultant and the school make these cases more difficult to prosecute.

In addition, in this age of computers, faxes and electronic data transfers, it becomes more difficult to prosecute a "wrongdoer." In the past, representatives of the institutions were required to sign and certify the accuracy of the Institutional Payment Summaries. Institutions are currently permitted to file these reports electronically through the Central Processor. A representative of an institution signs an electronic submission contract at the beginning of an award year that covers several years. The electronic filing of the report does not require a signature or certification by the institution. The lack of a signature or certification by a representative of the institution decreases the ability of the Department to take action against a "wrongdoer." Because no signature certifying the documents' completeness and accuracy exists, providing acceptable evidence and proving who filed the documents is much more difficult.

Let me suggest that, in this age of computers, faxes and electronic data transfers, the Department can achieve access, while still realizing efficiency and accountability. The same tools that allow schools to access large amounts of Federal funds should also foster an environment for reporting. Using this modern technology in an accurate and timely manner, schools should be expected to report to the Department the amount of Pell funds expended, along with backup verification data.

The Department should also be able to use current computer technology to reconcile in an accurate and timely manner and to cut off the flow of Federal Pell Grant funds to schools that have not properly accounted for their use. In short, the Department and the schools have used the electronic transfer of Pell funds and the transfer of data to expedite the flow of Federal money out; the Department and the schools should use the same tools for effective reporting in.

While we are still performing audit work in this area, we definitely believe that improvements must be achieved in the closing and reconciliation of these accounts, as well as documentation requirements, in order protect the taxpayer's interest.

OVERSIGHT OF THE PELL ADMINISTRATIVE CONTRACTS

Another item that I'd like to discuss with you today is the Department's oversight of the contractual arrangements through which the Department administers key aspects of the Pell Grant program. Currently, primary contractual support to the Pell program is provided by eight private contractors. As demonstrated in my discussion of the delivery system, these contracts provide for everything from inputting and processing student aid applications to maintaining the systems that authorize and record the disbursement of Pell Grant funds to educational institutions. For the five years ending in 1993, we estimate that the Department has expended approximately $63 million for contractual support to administer just the Federal Pell Grant program.

Contract costs have also increased at a dramatic rate during this five-year period. In 1989, the portion of the contract costs associated with Pell application processing were $3.4 million. By 1993, the Department paid over $18.1 million, an increase of approximately 432%, although the applications processed only increased by 23%.

While we have not yet completed our audit of the Department's oversight of the Pell Grant contracts, we already have a number of major concerns in these areas. The first of these concerns is that there appears to be inadequate certification of claims by contractors regarding the number of applications they processed. Because payments to contractors are based on these workload figures, lack of effective verification results in payments to contractors based on the "honor system." For example, during fiscal year 1993, MDE contractors reported to the Department that they processed 8.6 million applications for student financial assistance. We estimate that the portion related to the Federal Pell Grant program was about $11 million.

Department program staff do not verify the number of applications processed; instead, they simply pay the contractors the amount shown on their invoices without any assurance as to their accuracy. Further, we are concerned that the Department's on-site review of contractors is not adequate to ensure that contractors are performing their duties as required.

The potential impact of inadequate contractor oversight goes beyond the cost incurred by the Department for services rendered. To the extent that contractor performance is deficient, few aspects of the Pell delivery system can be expected to function absent abuse and potentially even fraud.

OVERSIGHT OF PARTICIPATING SCHOOLS

Each participating institution is responsible for the day-to-day administration of the Pell Grant program on its campus. As part of an agreement entered into with the Secretary of Education, each school is responsible for ensuring that the program is administered according to Departmental policies and regulations and any provisions of the agreement signed with the Secretary. The specific regulations which these institutions are committed to, include determining student eligibility, calculating and disbursing grant funds, enforcing academic progress standards, maintaining student attendance records, and calculating and making refunds.

Over the years, we have uncovered numerous irregularities in the administration of the Pell program by specific schools, as well as indicators of systemic problems. Our audits, investigations and inspections have consistently found problems with institutions' administration of the Federal Pell Grant and the other student financial assistance programs which have led to significant questioned costs, and frequently the closing of the institutions involved.

We have found schools that have disbursed Pell funds to ineligible students. Among the violations identified by us and by the General Accounting Office are admission requirements not being enforced, students receiving Federal Pell Grants even though they have not signed required documents, and academic progress standards that are not being enforced or that are inadequate or lacking. In some instances, schools have been engaged directly in fraudulent and abusive practices. One area that has consistently been identified as a problem is that of Federal Pell Grant overpayments resulting from overstated cost of attendance.

I believe our work discussed in the preceding sections will help the Department in its improvement of the Federal Pell Grant delivery process, and we plan to make several substantive recommendations to improve areas in which we continue to see risk to the students and the taxpayer. Recognizing the need for an effective Department monitoring and oversight program of schools currently participating in the SFA programs, we believe that it is important for us to review the Department's school program review process. We are currently completing audit work to evaluate the Department's performance in this area and will be providing the Department with specific recommendations identifying opportunities for improving the actual conduct of on-site program reviews as well as the administrative procedures and information systems that support the program review function.

Student Application Errors

An area in which we have consistently seen evidence of weakness is the student application process, which is estimated to account for hundreds of millions of wasted Federal dollars each year. A recent report entitled, "Quality in Student Financial Aid programs," summarized the results of various studies showing estimated student error, institutional error, and total error in Pell Grant awards. Although the report noted that these studies varied in nature and sampling methodology, the report concluded that there is little doubt that the errors in awards are considerable.

The latest report covering Pell Grant awards for 1988–1989 reported that 28% of Pell Grant recipients received over- and underawards totaling $481 million (overawards—$379 million; underawards—$102 million) due to application errors. We asked Pell program officials what actions they had taken to correct the 28% error rate on student applications. Although some corrective actions have been taken, we found that internal control weaknesses are still evident in the application process. For example, we recently completed an investigation of a private contractor who was falsifying family income on student applications in order to qualify those students for Federal Pell Grants. Of the 75 schools coast to coast that received these falsified applications, only 3 detected the errors. This is particularly troubling since each school is required to verify key elements of the student records for up to 30% of its applicants.

Investigators' discussions with officials from some of the schools that did not detect the errors disclosed that some schools do not verify the applications as required. The results of the Department's 1992 program reviews substantiated this issue, as about 400 of the 700 program reviews identified instances where verification procedures were not followed or documented. About 1,000 of the 6,400 audit reports issued by the OIG in 1992 also identified this as a deficiency.

As we work with the Department to resolve issues in the application process, we all must focus on identifying and changing procedures in the process that seem to generate errors.

CONCLUSION

The Federal Pell Grant program is, by its very design, vulnerable to fraud and abuse. This $6.2 billion per year program operates essentially on an "honor system." Significant problems have been identified both in the gatekeeping function, which permits institutions to participate, and in the monitoring of those institutions' participation. Our current work is showing problems with the system for authorization, reporting and reconciliation of drawdowns, which can be easily abused by unscrupulous participants. It is showing opportunities to improve oversight of contracts for administration of key aspects of the Pell program and of higher education institutions responsible for day-to-day administration of the program. Most important, the Pell program, like the loan programs, has no clear outcome performance measures. A focus on this program is particularly important when it is being looked to as a model for the new direct lending program.

Mr. Chairman, I thank you for the opportunity to report on some of our efforts in the student aid area. I would be happy to answer any questions you and other Subcommittee members may have.

PREPARED STATEMENT OF DAVID A. LONGANECKER

Mr. Chairman and Members of the Subcommittee:

I welcome this opportunity to discuss with you today the Federal Pell Grant Program. Over the past 20 years, the Federal Pell Grant Program has been an immensely important program for improving college access for low-income individuals. Unfortunately, the program has also had its share of problems, including abuse by program participants, poor management, and inadequate standards for measuring program outcomes. Correcting these problems will restore integrity to the Federal Pell Grant Program and increase its effectiveness in helping low-income students achieve success in postsecondary education.

In my testimony, I will first highlight the significant successes of the Federal Pell Grant Program. I will then discuss three areas that demand our immediate attention. We know that some currently participating schools should never have been approved for the program, so I want to discuss our "gatekeeping" responsibilities. We know that our monitoring efforts sometimes fail to uncover instances of mismanagement and abuse, so I want to share with you our revised strategies for improved institutional monitoring. Finally, we know that the program needs clearer performance goals and standards, and I look forward to working with you to clarify and improve these standards.

We are committed to solving these problems. The program is simply too important to ignore its management shortcomings or allow it to be abused by those who would exploit the program and its participants for purposes contrary to the program's intent.

ACCOMPLISHMENTS OF THE PELL GRANT PROGRAM

This program has enabled millions of students to attend our Nation's colleges, universities, and trade schools. Since its enactment in 1972, the Federal Pell Grant Program has made 55.7 million awards totaling $64.2 billion to students. Today, more than 4 million students—almost 25 percent of all students attending our postsecondary institutions—receive Pell Grants. Most importantly, this program has enabled millions of low-income students to attend college who otherwise would have been unable to afford a postsecondary education. It has been the critical cornerstone of our Federal commitment to provide access. It has helped reduce the gap between the percentage of low-income and high-income students attending postsecondary institutions. Total enrollment in higher education grew from about nine million students in 1972 to more than 14 million students today. Although this increase in students is reflected across all income ranges, the increase for students from low-income families is significantly higher than the increase for other income groups. In addition, this program has helped to expand the options available to these students. The percentage of high school seniors from low-income families attending their first choice college increased from one-third in 1972 to almost one-half just 10 years later.

To achieve fully our goals for the Nation's students, we need to promote not only access but also program completion and graduation. While we have a long way to go to improve retention rates at the postsecondary level, the effect of Federal Pell Grants on the retention rate for low-income students is striking.

A low-income student who receives a Pell Grant is twice as likely to earn a baccalaureate degree as a low-income student who does not receive a Pell Grant. When you consider that this improved attainment occurred at a time when the graduation rate was declining, the turnabout in the data for low-income students who received Pell Grants is even more remarkable.

However, as the Pell Grant program has grown and established this remarkable track record, the number of those who would exploit the system has also grown. I am here today to affirm our commitment to make this program work even better and to frustrate the efforts of those who would abuse it.

GATEKEEPING

We know that some schools have been allowed to participate in the Federal Pell Grant Program that should never have been approved for participation. Since the Department last testified before this Committee on the student loan program, we have worked with the Congress to improve the process by which we approve schools to participate in the Title IV student aid programs, including strengthening our eligibility and certification procedures, enhancing the State role in licensing and reviewing postsecondary institutions, and improving the accreditation process. The Higher Education Amendments of 1992 strengthened and complemented the numerous steps we took prior to reauthorization to tighten our monitoring and gatekeeping processes and requirements.

Perhaps the most important tool included in the 1992 Amendments is the ability to certify schools provisionally to participate. Through provisional certification the Department can limit the length of time and conditions under which a new school is allowed to participate. When a school has no history of administrative capability or financial responsibility, the majority of which are new schools or schools that have changed ownership, we can provisionally certify a school for a period of time that allows us to monitor its performance closely. Further, such schools agree to the Department's right to revoke their provisional certification with a simple notice that gives schools ten days to demonstrate that the decision is wrong. Thus, we can now take action to remove quickly from the student aid programs new institutional participants that fail to perform adequately. In fiscal year 1993, we certified provisionally 166 schools, including 47 new schools and 67 schools that changed ownership.

We have begun performing certification reviews for Title IV program participation of all institutions adding one or more locations. Next year, we will begin to review the eligibility and certification of all participating schools. To do this, we will establish a priority ranking of all 7,300 participating schools based on indicators of potential problems and funding levels. We expect to review about 1,500 schools in the first year and will concentrate on those institutions that pose the greatest risks for Federal funds. Of course, we will also review schools that are of lesser risk, as well as initial applications, applications for changes in ownership, and other routine actions affecting participation. We believe that this plan will allow us to meet the statutory requirement that all institutions have their eligibility and certification reviewed within the next five years.

We have consciously improved our coordination with States and guaranty agencies with respect to actions relating to closed institutions. When a school closes all entities with oversight responsibilities are promptly notified in order to cease the flow of Federal funds and initiate efforts to recover already expended funds. Additionally, now that we have more experience in compiling default statistics for institutions, we are focusing greater attention in our certification efforts on institutions that have high cohort default rates in the Federal Family Education Loan Program. Accordingly, it is imperative for the Congress to act favorably on our legislative proposal to close the loophole that has permitted some institutions to escape the consequences of a high default rate through litigation. Finally, the level of surety has been increased as required where necessary to protect the federal government and students. Currently, 232 participating institutions have posted surety totaling $58 million. Also, we are converting, as needed, the type of surety required from performance bonds to letters of credit, which are more readily collectible by the Secretary.

Our efforts to improve gatekeeping activities have also been aided by several new authorities in the 1992 Amendments relating to State oversight and accreditation.

Our partnership with the States in the oversight of postsecondary institutions is significantly strengthened by the State Postsecondary Review Program. Under this new authority, the States will develop standards approved by the Department to use in conducting reviews of institutions referred to the State by the Department. As originally recommended by this Committee, the Secretary now has statutory authority to provide reimbursements to States for the cost of their efforts. Although no fiscal year 1993 funds were appropriated for this activity, $5.3 million was reprogrammed within the student financial assistance account to initiate the program and nearly all states applied for funding to support start-up activities. The fiscal year 1994 appropriation for the Department provides $21.25 million for this activity, permitting States to begin reviewing their postsecondary institutions and to establish consumer complaint and information systems.

The accreditation process has also been strengthened. Proposed regulations for recognizing accrediting agencies, which the Department will soon publish, will make it clear that the accrediting agencies are accountable for the schools they accredit. As required by the 1992 Amendments, accrediting agencies must be separate and independent, both administratively and financially, from any related or affiliated trade association or membership organization. This requirement will eliminate the danger of trade associations exerting, or being perceived to exert, pressure on accrediting agencies to keep their accrediting standards low.

Also, as required by the 1992 Amendments, accrediting agencies will be required to have meaningful standards for assessing an institution's fiscal and administrative capabilities, recruiting and admissions practices, measures of program length and student achievement, and program completion, job placement, and default rates. In the case of non-baccalaureate vocational education, where the Department and your Committee have uncovered many problems, the regulations we are developing would require State agencies to establish standards for such measures of student achievement as completion rates, job placement rates, and pass rates on State licensing exams. These regulations would also require accrediting agencies to take follow-up action when a school fails to meet the accreditor's standards.

Further, the 1992 Amendments have helped us target common areas of abuse for correction. For example, the Secretary will no longer recognize the accreditation of any institution that is in the process of changing from one accrediting agency to another unless there is a strong demonstration of reasonable cause. Further, each institution must designate one accreditor for purposes of program eligibility to prevent accreditation "shopping."

MONITORING AND OTHER MANAGEMENT ISSUES

The Department has taken a number of significant steps in improving the administration of the student financial aid programs. Because students apply directly to the Federal Government for their Pell Grants, we have been able to use this national data base to implement a number of very productive controls. For example, in January 1991, we began matching Pell Grant applicants with our file of defaulted student loans that had been assigned to the Department for collection. In July, 1992, we expanded this activity by matching applicants with the default files of guaranty agencies. This effort has been helpful in ensuring that ineligible students do not receive Pell Grants. So far this year, we have identified over 95,000 applicants through these data matches.

In January, 1994, we will begin to match the social security numbers of all student aid applicants with the master file maintained by the Social Security Administration. Previously our efforts to incorporate data base matching schemes were blocked by various statutory provisions, including outright prohibitions. This new statutory authority to verify social security numbers gives the Department a powerful tool to weed out additional fraud and abuse.

Another management improvement that benefits both institutions and students is our strategy of streamlining the Pell Grant process by actively promoting the use of electronic processing. Today, about five of every six student payment transactions originated by participating institutions are accomplished electronically. Our goal is 100 percent.

We plan to use our regional staff to help review high-risk schools on site, as part of their ongoing monitoring responsibilities. We will also coordinate with States, guaranty agencies, and accrediting bodies to maximize our combined on-site review capacity. These steps will enable us to employ our resources even more effectively.

We also have reorganized the Office of Postsecondary Education to strengthen our monitoring and oversight efforts and to enhance our efficiency. In the student financial assistance programs we have now consolidated all offices with monitoring and gatekeeping responsibilities, where before they were scattered among various units. Placing all of these functions in one unit provides better coordination and permits more effective program management.

Data verify the impact of our monitoring and management improvements. As a result of our program reviews, assessed institutional liabilities for fiscal year 1993 ($337 million) were up substantially from the previous year ($226 million). This is largely due to a policy decision made in 1991 to emphasize the quality of reviews over the quantity of reviews. Our reviews are now longer and conducted by two specialists, rather than one. In addition, enforcement actions increased markedly during fiscal year 1993 over the previous year:

- 163 institutions were terminated, an increase of 40 percent;
- 59 emergency actions were taken, an increase of 97 percent; and
- 56 debarment actions were taken against individuals, an increase of 51 percent.

Developing Consensus on Program Goals and Performance Standards

We need to work with you and your colleagues in the Congress to develop a clearer consensus on the standards that are needed to assess the Federal Pell Grant Program's performance. Regrettably, we have not always had consensus even within the Congress on such standards, leading, sometimes, to circumstances that many find untenable. For example, some students have received Pell Grants for a longer period of time than reasonably necessary to complete an undergraduate degree program, including one student who received Pell Grants for 18 consecutive years. Currently, there is no limit on the number of years a student can receive a Pell Grant. The restriction, added to the statute in 1986, on the number of years in which a student could receive a grant was removed by the Congress in the 1992 Amendments, over the Department's strong objections. You should note that we have not always received support from the Congress for our efforts to strengthen program integrity when our measures were perceived as reducing access to the program.

The Department is working on plans to measure the success of the Pell Grant program against specific standards. If we are to have new and meaningful standards, we need a shared understanding of the aims of the Pell Grant program. To this end, we have begun meeting with representatives of the postsecondary education community, Congressional staff, and our colleagues at the Department of Labor to discuss the goals of the student financial aid programs and what measures should be used to assess and improve the extent to which these goals are met.

Conclusion

In conclusion, we are pleased with the accomplishments that the Federal Pell Grant Program has made in providing access to postsecondary education. We are aware, however, that the program has had its share of problems and we are committed to making the necessary reforms in our gatekeeping and monitoring processes.

While we will be vigilant to seek out and take action against those who defraud or abuse the program, I hope you understand that I cannot promise you that we will eliminate greed and corruption. Creative crooks will find new ways to steal from the Federal treasury, and large programs like the Federal Pell Grant Program seem to attract them in increasing numbers.

We are also committed to work with you to develop clearer performance standards for measuring the outcomes of the Federal Pell Grant Program, so that there will be greater certainty about program purposes and, consequently, more confidence in the program's integrity and management. Developing an adequate consensus on the program's objectives is especially important in a time of limited resources. We will need your help in considering further legislative changes including, for example, closing the cohort default rate loophole, and accepting the Department's proposed technical amendments to the Higher Education Act. It is important that all work together to see that the higher standards for financial responsibility anticipated in the 1992 Amendments are implemented. Further, we will need your help in obtaining adequate resources if we are to implement necessary improvements.

We need to balance controls on unscrupulous institutions with regulatory burden for all institutions. Our efforts to improve oversight may cause some anxiety in the postsecondary education community as well as the Congress. Although most groups support stronger oversight in principle, they often oppose its specific application to them or to institutions in which they have an interest. Only with your help and support will we be able to meet the challenge we now face.

I would be happy to answer any questions that you might have at this time.

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OFFICE OF THE PRESIDENT

STATEMENT TO UNITED STATES SENATE PERMANENT SUB-COMMITTEE ON INVESTIGATIONS BY MOLLOY COLLEGE

Senator Nunn, Senators and Staff of the Permanent Sub-Committee on Investigations:

INTRODUCTION

It is an honor for me to be allowed the privilege to address you briefly today on a matter of extreme importance--not only to all Americans but to Molloy College, Rockville Centre, New York. I have provided you with copies of my own Vita and that of S. Patricia Morris, Ph.D., the Academic Vice President of Molloy College. I do that to take none of the precious time allowed to me this morning. I would call your attention to some very important personal facts: I have been a Sister of St. Dominic for 40 years and have taught and ministered in the field of education for 38 of them. I am from Queens, New York City, have taught in Queens, Brooklyn, and Long Island on all levels of education. This is my 25th year at Molloy College and my 21st year as its President. Doctor Patricia Morris is a Dominican Sister for 39 years, an educator for 40 years, a Professor at Molloy College for 24 years, and Academic Vice President for 13 years.

Sister Patricia Morris and I are Sisters, yes. We have dedicated our lives to God and to others. We did not become religious with a vow of poverty to become wealthy, famous, or to become a president or vice-president of a college. Nevertheless, we are experienced, knowledgeable, respected and dedicated educators. My point is, we are experienced in the administration of a college. Molloy College is known throughout the New York Metropolitan Area, and dare I say it, in the United States, and many foreign countries, thanks to our faculty, administration, and alumni who have served in various professions throughout the United States and the world. Nurses who have graduated from Molloy College served honorably in the Persian Gulf, and our graduates also have served in the poorest regions of the world. In hospitals and schools from New York to California, Molloy College professionals are now laboring to serve their fellow human beings. Molloy College is young. It is a mere 38 years old. Molloy College is relatively small. Our record enrollment on campus for this year is slightly over 2000 undergraduates and graduates. All are commuters and many of them work at part-time or full-time jobs. Our College does not have a large endowment, but it is an asset to the country and the world. Our alumni and students, the people whom we have touched, inspired, and taught will attest to this. That is why, today, I must be very frank, perhaps even passionate in my short time with you. I hope that you understand that the very existence of Molloy College is at stake.

Personally, I am astounded, appalled, and justifiably angry at the events that have led to my presence here. Before I begin the chronology of those events, let me say that as a Sister, an American, a philosopher and teacher of morals, I have the utmost respect for the law. In my philosophy classes I often include the responsibilities of citizenship as well as the rights of each human being. The motto of the Dominican Order is "Veritas", "Truth". Every Dominican has a passion for Truth. I continuously emphasize to my students the urgent duty, even in the smallest things, to speak the truth, to live up to one's word, to honor any contract. Not only are these maxims of the Natural Law accessible to all reasonable human persons, but they form the very basis of society and country. To violate Truth leads to the downfall of justice, our court system, our very Nation itself. With these preliminaries over, let us proceed to the events that have led to my presence here today. Molloy College has supplied the United States Department of Education, the United States Department of Justice, the New York State Department of Education, the New York State Comptroller's Office, and this Committee with all the documents and information requested--and, I may add, at great expense.

Molloy College

SUMMARY OF THE CASE

Molloy College was brought into this investigation because of alleged abuses and mismanagement of funds on the part of one or several of our off-site educational directors. If these allegations are true, **Molloy College did not know of them and had no part in them.** The contracts with our off-site directors are legally sound and spell out very clearly the responsibilities of the College and the off-site directors. (I append a sample of this contract, although we have already provided this to your investigators.) Let me state some important aspects of these contracts.

Molloy College had complete control and responsibility for the academic and educational aspects of the program. We approved all adjunct teaching faculty. Course outlines had to be the same as those utilized on campus. The Academic Vice President has the resumes of all adjunct faculty and personally visited and evaluated the off-sites. The off-site entities had the contractual responsibility of providing appropriate classrooms, lecture halls and other facilities, utilities, custodial and maintenance, insurance, transportation service and cultural enrichment programs. (Attachment B of Contract). Any advertising that the off-site directors distributed had to be approved by S. Patricia Morris for accuracy and honesty. All financial aid forms and checks were under the supervision of our Vice President for Business Affairs and his administrators in the Student Financial Aid Department. Molloy College, upon receipt of the Pell Grant and New York State Tuition Assistance Program checks for the students, originally retained $550.00 per student per semester for administrative costs and partial tuition. This was later raised to $750.00 per semester. The balance of the Pell Grant and New York State Tuition Assistance checks were forwarded to the off-site entities to provide the services set forth in the contract. The students enrolled in these programs were expected to pay all tuition and fees from all sources reasonably available to them, including but not limited to personal and family resources and such financial assistance to which they might be entitled by government formula.

As stated contractually, the off-site entities were to provide through "institutional aid" from their operational budgets to cover any balance of the student's tuition. For the year 1991-92, the tuition for all Molloy College students was $3,900.00 per semester. (Contract, Attachment C). If any tuition balance were to be paid by the student, it was to be paid to Molloy College and not to the site entities. If there were abuses in the program, we **knew nothing about them at the time and of course had no part in them. If we had had even a hint of any wrongdoing, we would have taken action immediately!** Our actions when any academic or educational impropriety came to our notice testify to this. For example, you should be aware that S. Patricia Morris had demanded the removal of an off-site director for curriculum mismanagement.

CHRONOLOGY OF THE OFF-SITE CLASSES

Molloy College was brought into this investigation because we allowed students legitimately enrolled to pursue an Associate of Arts degree program while attending classes primarily at off-sites in Brooklyn and Queens. Most of these students were Russian Jewish immigrants but there were also Blacks, Latinos, and other minority groups.

We did not create the idea of the program. Indeed, we did not even know of the need for such a one. In 1987, S. Patricia Morris was approached by Rabbi Joseph Gelman. He requested that Molloy College enter into an arrangement with his organization to fill a desperate need on the part of the Russian immigrants for an opportunity to obtain an American education.

You may ask, "Why would Molloy College enter into such an arrangement?" Our response is clear. The Federal Government, New York State, the accrediting agencies, all were urging American colleges and universities to do more for minorities and immigrants. Molloy College responded with an increased recruitment plan for minorities from Long Island to register for on-campus classes. The request of Rabbi Gelman to assist in educating Russian Jewish immigrants provided Molloy College with another opportunity to accomplish its mission and fulfill its responsibility. This is the truth. At no time did we enter this venture for reasons of financial gain.

The program started in 1987 with 40 students at two sites in Queens: Far Rockaway and Forest Hills. Under the New York State Education Regulations, a college could allow such classes at off-sites [New York State Commissioner's Regulations, 50.1(t)] toward an approved registered degree program without any permission from the State Education Department. In 1989 and as the program developed, we forwarded the curriculum to the New York State Department of Education together with copies of our contracts with the sites. We also reported the program annually to the Middle States Association, our accrediting entity. In August 1989, in response to an inquiry for information from Dr. Denis Paul of the New York State Education Department, additional information was forwarded to his office. Thereafter, on December 7, 1989, Dr. Paul wrote to the College and stated that "our letter helped clarify the general characteristics of the relationship".

With the increased flow of immigrants, especially Soviet Jews from the former Soviet Union, the program continued to grow and the number of sites increased. In order to insure our control over the program, we asked the State Education Department in 1990 for approval to establish 4 extension centers [New York State Commissioner's Regulation 50.1(s)]. In view of the fact that our Vice President of Academic Affairs and members of the faculty and administration were visiting the sites in a supervisory capacity, it seemed prudent that centralization would increase our ability to assure the fulfillment of our educational responsibility.

We were informed by the State Education Department at first that there were "no forms" available for the establishment of extension centers but that we should write a letter requesting these centers. Accordingly, on November 19, 1990, I wrote to the State Education Department to request the establishment of the extension centers. Several days later we were informed that certain forms were, in fact, available and should be submitted. Since that time, we have been attempting to satisfy the requirements of the New York State Education Department with regard to our proposal to establish extension centers. We were advised as recently as March 1993, that the request is being "currently reviewed".

In 1993, the College became aware that there were some questions concerning the "eligibility" of the program. Two audits were conducted early in 1993, one by the U. S. Department of Education and the other by the New York State Comptroller's Office. We believe that these audits were a result of the on-going investigation by this Committee. Both groups of auditors inspected records of students primarily attending classes at off-site locations. The New York State auditors remained in the College for approximately 5 weeks. The United States Department of Education, having never criticized our program, made a perfunctory visit to the campus during which time they photocopied records of students at off-site programs.

An issue raised in both audits was the "full-time" status of the students. The College believed that since the Regulations of the State Education Department set a minimum of 12 credit hours per semester for a full-time student, and since our Associate of Arts Degree program at the off-sites **did indeed require 12 credit hours** per student, the "full-time" question had been resolved.

Both State and Federal auditors then began to question the New York State Education Department about the academic "eligibility" of the program. Upon requests from the State Education Department, we provided them with all the documentation necessary to show that, indeed, the program was educationally sound and adequately supervised. Differences in the curriculum from that offered on campus were not substantial and the special provisions made for the off-campus students were similar to provisions made for on-campus students who have had particular learning problems. In the case of the Russian Jewish immigrants, it was a language problem. Thus, English as a Foreign Language was recommended by the Vice President for Academic Affairs in accordance with the New York State Commissioner's Regulations. [Reg. 52.2(e)(2)].

Another question raised was the number of semesters required to complete the program. The Satisfactory Academic Progress

Standards adopted by New York State permit the completion of the Associate of Arts Degree in 5 years. The Federal Government Satisfactory Academic Progress Standards allow 3 years to complete the Associate of Arts Degree. It is a well-known fact to educators that students with special difficulties often require 3 to 5 years to complete the Associate of Arts degree. Yet, the State Education Department determined on July 19, 1993, that the program offered off-site was substantially different from the registered program approved in 1976. Three major reasons cited were:

1) Lack of proper supervision. Ironically, as I stated previously, our efforts to centralize the students were thwarted by the New York State Education bureaucracy.
2) Our off-site program required 3 years instead of the so-called "normal" 2 to complete.
3) There were 3 additional courses recommended by our Vice President for Academic Affairs.

Criticism by Albany about academic supervision and the curriculum ignored the fact that the College had consistently forwarded the curricula and had reported details of the program not only to the New York State Education Department but to the New York State Board of Regents as part of the Master Plan process, to the Middle States Association, and to the Higher Education Service Corporation (HESC) through the annual Higher Education General Information Systems (HEGIS) Report.

Members of the Molloy College administration and the Chairman of the Board met in Albany with Dr. Donald Nolan, Deputy Commissioner, and his staff on July 29, 1993. We subsequently submitted additional documentation to Dr. Nolan in order to satisfy whatever requirements there may be to save the program. On August 2, 1993, Dr. Nolan requested that the program be terminated at the off-campus sites; Molloy College complied by an immediate suspension of the program.

On September 30, 1993, Dr. Nolan wrote to Molloy College and advised us that the program which we had been offering off campus was not "eligible" retroactively for student financial aid for the reasons stated above, notwithstanding the fact that previously awarded degrees were deemed valid. The effect of that letter is devastating to Molloy College and threatens its very existence. The immediate impact is as follows:

1. The U. S. Department of Education, having received Dr. Nolan's letter, has advised the College that all Title IV grants since 1988, approximately $7,000,000, are now deemed institutional liabilities. Yet, Molloy College retained only a small amount of those funds.

2. The New York State Comptroller's Office had previously advised us that if the program were "not eligible", the College would be liable for upwards of $10,000,000. of New York State TAP awards.

SUMMARY

Molloy College has fulfilled completely its contractual obligations to our students at off-site locations. We have provided them with a sound education and had complete control and responsibility for the academic and educational aspects of the program. We kept complete financial aid records, academic records, and evaluated the faculty through our Vice President of Academic Affairs who personally visited the sites and evaluated the curriculum, faculty and progress and educational needs of the students. Unfortunately, our attempts for better control and supervision were thwarted by the New York State Education Department.

Although Molloy College has reported and regularly communicated with the New York State Education Department, we never received a hint that there was any problem with the off-site program until this year. Yet, we now have evidence that there were internal memoranda in the State Education Department regarding questions of the eligibility of the program as early as 1990! These questions and reservations were **never made known to Molloy College**. If they had, the College would have taken immediate action at a time when the number of students in the sites was very few.

Molloy College has also fully cooperated with the State and Federal authorities. All the Student Academic and Financial Records associated with the off-site program have also been made available to the United States Department of Justice.

Molloy College has always acted professionally, ethically, and in good faith. We have no evidence that the off-site entities acted differently. If any New York State or Federal Agency had advised us of a legitimate objection to our off-site programs, we would have remedied the problem, if possible. If not, we would have terminated our contracts immediately. We did suspend the entire program this August and most likely will not resume it.

We are confident that the educational results of the program were good ones. Tangible proof of this exists in the great success of our Russian Jewish graduates who, as a direct result of our reputation at the off-sites, studied on campus for a Bachelor's Degree in Nursing. Every one of them passed their R.N. Licensing Examination on their first try!

There is a great need on the part of minorities and immigrants to have access to postsecondary education. The Pell Grants make this possible. It is my hope that some ways will be found that will enable students such as ours at the off-sites to receive their education to improve their standard of living, to enable them to obtain suitable employment, and to become good citizens.

Molloy College is a respected institution of higher learning and should be encouraged and praised for the quality of education that is its hallmark rather than be penalized for it. If this Committee can do anything at all to remedy the injustice that has been done to the College, I urge you to do so. For our part, we shall continue to assist your Committee and the Federal Government in their ongoing investigations. I thank you most sincerely for the opportunity to present our case personally.

Respectfully submitted,

S. Janet A. Fitzgerald, O.P., Ph.D.

Sister Janet A. Fitzgerald, O.P., Ph.D.
President, Molloy College

APPENDICES

1) Vita - Sister Janet A. Fitzgerald, O.P., Ph.D.
2) Vita - Sister Patricia A. Morris, O.P., Ph.D.
3) Sample Contract

APPENDIX 1

SISTER JANET A. FITZGERALD, O.P., Ph.D., LL.D.
President, Molloy College
Maria Regina Hall
(Dominican Sisters' Faculty House)
1000 Hempstead Avenue
Rockville Centre, N.Y. 11570

Born:	September 4, 1935, Woodside, Queens, New York.
Parents:	(Deceased) Robert William and Lillian (Shannon), both of Manhattan, N.Y.
Religious:	Congregation of the Sisters of St. Dominic, Amityville, N.Y. Entered 1953; Profession of Vows, 1955. Regional Superior, 1971-72.

EDUCATION:

1982	LL.D.(Honorary): St. John's University, Jamaica, Queens, N.Y.
1971	Ph.D. Philosophy: St. John's University, Jamaica, Queens, N.Y.
1967	M.A. Philosophy of Science: St. John's University, Jamaica, Queens, N.Y.
1965	B.A. Mathematics (Magna cum laude) General Excellence Award, Valedictorian: St. John's University School of Education, Jamaica, Queens, N.Y. New York State Permanent Certification in Secondary Mathematics
1953	Graduated with honors, Bishop McDonnell Memorial High School, Crown Heights, Brooklyn, N.Y.

PROFESSIONAL EXPERIENCE:

1972-Present	President: Molloy College, Rockville Centre, N.Y.
1969-Present	Professor of Philosophy: Molloy College - Presently teaching Medical Ethics.
1971-1972	Acting Chairperson: Philosophy Dept., Molloy College.
1987-Present	Adjunct Professor of Metaphysics and Natural Theology: pre-Theology Program of St. Joseph's Seminary, Dunwoodie, N.Y.
1965-1969	Mathematics Teacher: Bishop McDonnell High School, Crown Heights, Brooklyn, N.Y.
1956-1965	Teacher: grades 5 through 8, St. Thomas Apostle School, Woodhaven, Queens, N.Y.
1955-1956	Teacher Primary grade: St. Ignatius Loyola School, Hicksville, N.Y.

SELECTED ACTIVITIES:

Appointed by William Cardinal Baum an "invited expert" ("peritus") (the only woman so designated) to the Vatican International Conference on Catholic Higher Education attended by 170 Bishops, Vatican officials, Catholic University Presidents and Rectors from 40 countries: Rome, Italy, 1989.

Selected by Commissioner Thomas Sobol, New York State Education Department, to serve on the Blue Ribbon Panel to study the impact on New York State of the decline in the number of Catholic Schools and Catholic School enrollment, April 1992 to present.

Appointed by His Eminence John Cardinal O'Connor to serve on the Public Policy Committee of the New York State Catholic Conference, October, 1992 to present.

Member of the Board of Trustees of CICU (Commission on Independent Colleges and Universities), 1981-1984 and 1989-1992.

Chairman, Long Island Regional Advisory Council on Higher Education (LIRACHE), a consortium of seventeen Long Island Colleges and Universities, 1981-84
Member of the Board of Trustees, 1972 to present.

Serves/Served on Boards of:

Catholic Charities, Diocese of Rockville Centre, N.Y.
Seminary of the Immaculate Conception, Huntington, N.Y.
Pre-Theology Program, St. Joseph's Seminary, Dunwoodie, N.Y.
Institute for Advanced Studies in Catholic Doctrine,
    St. John's University, Jamaica, N.Y.
St. Francis Hospital, Roslyn, N.Y.
Nassau County Coalition on Abused Women, Hempstead, N.Y.
Nassau County Day Care Council, Hempstead, N.Y.
Harvest House, Syosset, N.Y.

SELECTED HONORS:

Received the Distinguished Leadership Award from the Long Island Business News for significant and unique regional leadership to the Long Island community, 1988.

Listed as one of Long Island's "100" Influentials by the Long Island Business News Research Department, June 1992, 1993.

Grand Marshal (first woman so designated) Ancient Order of Hibernians in America Fourth Annual St. Patrick's Day Parade, Glen Cove, N.Y. 1992.

Woman of the Year and Guest of honor at the Annual Cork Ball - presented with a plaque of appreciation for her work in education and her support and interest in the welfare of the citizens of Ireland. March 10, 1989.

Honored by the Long Island Chapter of the Catholic League for Religious and Civil Rights for her efforts on behalf of Catholic Education, October 20, 1989.

First woman cited "Achiever in the Field of Education" by the 110 Center for Business and Professional Women at their Founding Achievers Dinner, October 1977.

Selected as an Educator of the Year 1980, by the Association of Teachers of New York, November 1980.

Cited as "Fall Gal" by the Long Island Sky Club - emblematic of Lifetime Governorship, March 17, 1980.

Presented with the Distinguished Long Islander in Education Award by the Epilepsy Foundation of Long Island, April 26, 1991.

SCHOLASTIC HONORS:

Post Doctoral Fellowship from the National Science Foundation, "Institute on History, Sociology, Philosophy of Science", Catholic University of America, Washington, D.C. Summer 1971.

Award for Post-Doctoral work from the Carnegie Institute of Philosophy at Notre Dame University, Indiana - 1971.

National Science Foundation Teaching Fellowship, St. John's University, Jamaica, N.Y. 1965-67.

Manhattan College Graduate Scholarship - Mathematics 1965.

St. John's University Graduate Scholarship - Mathematics 1965.

St. John's University Scholarship for M.A. and Ph.D. degree programs - Philosophy of Science and Philosophy 1965-71.

BOOKS PUBLISHED:

Alfred North Whitehead's Early Philosophy of Space and Time, published by the University Press of America, Washington, D.C., April 1979.

LI DISTINGUISHED LEADERSHIP *Award*

PRESENTED NOVEMBER 1988
to

Sister Janet Fitzgerald

Sister Janet Fitzgerald of Rockville Centre, dynamic and enthusiastic educator and administrator, your commitment to education is apparent in your unselfish service at Molloy College and on numerous education advisory boards.

Since beginning your teaching career at St Ignatius Loyola School in Hicksville, you have shown a never-ending commitment to education. You understand the problems of education for all grade levels, having taught students in middle school, junior high, high school and college. Today, you continue that service to education as an administrator and teacher. As President of Molloy College since 1972, you still find time to teach a philosophy course each summer.

Under your leadership, the Molloy College charter was amended to authorize the college to award associate degrees (AA, AS, and AAS). Molloy College also received reaccreditation by the Middle States Assn and the National League for Nursing in 1977. Then in 1978 it received the initial accreditation for the Social Work Program by the Council on Social Work Education.

Molloy College has also expanded its curriculum by adding 9 majors approved by the NYS Education Dept. A Masters in nursing is pending approval by the Bd of Regents.

Other successes during your tenure at Molloy have been the implementation of policies on faculty tenure and sabbatical leave, the completion of the Silver Anniversary Campaign for building a Fine Arts Center and the dedication of the Wilbur Arts Center, the building of Molloy Chapel and the opening of the Academic Computer Laboratory. A Mobile Health Unit was dedicated in 1983 and its use was implemented in the curriculum of the Nursing Dept.

In March 1987, Sister Fitzgerald welcomed then Hempstead Town Spvr Thomas Gulotta (3rd R) to an open discussion at Molloy College on the problems facing LI. Others in attendance were (L-R): Loretta LaGana, Molloy College Asst Professor of Political Science; Mildred DaRiggi, Molloy College Political Science Adjunct Instructor; Cathy Krein, Executive Director of PR at Molloy; and Bruce Hyman, City of Long Beach Supervisor.

But your dedication to education does not stop with your work at Molloy College. Since 1972, you've been a member of the Bd of Trustees of the LI Regional Advisory Council on Higher Education (LIRACHE), a consortium of 17 LI colleges and universities. You lent your leadership and knowledge to that council as its Chairperson from 1981-1984. You also served on the Education Committee of the Advisory Committee of the Bd of Directors at St Francis Hospital, on the Bd of Trustees of the Commission on Independent Colleges and Universities and on the Institutional Review Bd of St John's University in Jamaica.

You were recognized for the great educator you are by being named Educator of the Year in 1980 by the Assn of Teachers of NY.

Your love for education is equaled by your love for the Catholic religion. You entered the Congregation of the Sisters of St Dominic in Amityville in 1953. Since that time, in the true spirit of giving, you have devoted your time to serve on the Bd of Trustees of Catholic Charities, Diocese of Rockville Centre from 1979-1982. You were a member of the Bd of Advisors for the Seminary of the Immaculate Conception in Huntington, VP for Fellowship of Catholic Scholars and a Catholic Delegate to the Nat'l Congres Church-Related Colleges and Universities.

But the giving hasn't stopped. You are currentl member of the Committee on the Status of Women in Philosophy Profession for the American Catholic Phi sophical Assn, on the Advisory Bd of the Pre-Theolo Program of Dunwoodie Seminary in the Archdiocese NY, a member of the University Trust Committee of Inter-Faith Commemoration Committee—Kristallnac and on the Bd of Trustees for the Institute for Advanc Studies in Catholic Doctrine at St John's University.

In addition to leadership in the education and religi sectors of the community, you have served on the Committee on Abused Women, the NC Day Care Comm tee and on the Advisory Bd of Harvest Home, a home retarded adults.

This dedication to education and the LI community been recognized time and time again. In 1977 you were first LI woman to be cited Achiever in the Field of Edu tion by the 110 Center for Business and Professio Women at its Founding Achievers Dinner. Again in 19 you were a "first," receiving the first LI Arts Distinguis Contribution Award. In 1980 you were cited as "Fall G by the LI Sky Island Club, emblematic of lifetime gove ship.

The list of honors, like your unselfish service, continu You were a trustee for Heart Int'l, an honored guest a LI Institute on Judaism for Christian Clergy, a membe the *Newsday* Scholarship Committee and a member of NYS Committee for Jobs and Energy Independence.

For all your unselfish and enthusiastic contributions education, the Catholic religion and the LI commun Sister Janet Fitzgerald, you are truly deserving of the ho of being named a Distinguished Leader of LI.

Sister Fitzgerald meets with Gov Mario Cuomo Molloy's 1979 commencement. Cuomo's wife, Mathi (L), received an honorary doctor of pedagogy at graduation. Pictured are (L-R): Mathilda, Bishop Jo McGann, Cuomo, Cuomo's daughter, Sister Fitzgera

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The LI DISTINGUISHED LEADERSHIP AWARD is presented from time to time since 1968 by *LI BUSINESS NEWS* for significant service and uniquely effective regional leadership to the LI community. It is sponsored by KEY BANK. Recipients include:

Santos Abrilz
Sam Albicocco
Frank J Antun
Larry Austin
Donald E Axinn
[illegible] Bachman
[illegible] Barbash
[illegible] P Barry
Roger Baumberger
James Bender
Evelyn Berezin
John C Bierwirth
Theodore M Black
Robert Boice
Theodore Bassman
Herbert J Brauer
Leonard Braun
Wilbur Breslin
Charles Buckley
Rev N Cacciatore
Emil Cianciulli
Wilfred P Cohen
Angelo Corva
J Oliver Crom
George C Dade
Fred DeMatteis
George C Demussier
Charles Dickinson
Thomas A Doherty
Charles Dolan
Robert Duffy
Richard Dunne
Herman Fialkoff
Fenimore Fisher
Bernard Fisler
Winfield Fromm
Edwin Gallagher
John Gambling
Ilona Garve
George [illegible]
Allan Gittleson
Lionel Goldberg
J Peter Grace
Edward Gunnigle
Msgr Thomas Hartman
Jack Hausman
Charles F Hayward
Ray Heatherton
William Hoelling
George Hoffman
William Hopkins
Arthur Hug, Jr
Rene F Johansen
David Kadane
Walter Kaner
Bob Keeshan
Chester C Kelsey
John VN Klein
Dr Lee Koppelman
Abraham Krasnoff
Jack H Kulka
Albert Lippert
Thomas Lovely
John Luchsinger
Dr John Marburger
Bishop John R McGann
Robert McMillan
Dorothy Melville
CR Merolla
Mary Anne Meyer
Robert E Mitchell
Nick Monte
Tita & Joseph Monte
J Kevin Murphy
Salvatore J Nuzzo
Vincent O'Leary
Michael Pascucci
Louis A Pfeffe
Charles R Pierce
Joseph Pinter
John Racana
Donald Rechler
John Refalski
Gerald P Rooney
Arthur Roth
David Salten
Arnold & Joan Saltzman
Quentin Sammis
Robert D Schoeuing
Alexander Schure
Harold D Shapiro
Joseph G Shapiro
William Shea
Dr James Shuart
Eleanor Simpson
George Skurla
Sally Ann Slacke
James J Smith
Francis J Sorg Jr
Warren Spellman
Jerry Spiegel
Siegmund Spiegel
Dr Benjamin Stein
Eugene Sullivan
Elston Swanson
William Tavoulare
Gilbert Tilles
Bernard L Vinson
Ronald J Waldbury
Robert L Wendt
David Westermann
John White

BEST COPY AVAILABLE

APPENDIX 2

**SISTER PATRICIA A. MORRIS, O.P., PH.D.
VICE PRESIDENT FOR ACADEMIC AFFAIRS, MOLLOY COLLEGE
MARIA REGINA HALL
(DOMINICAN SISTERS' FACULTY HOUSE)
1000 HEMPSTEAD AVENUE
ROCKVILLE CENTRE, N.Y. 11570**

Born: January 6, 1931, Jamaica, Queens, New York

Parents: Canice (deceased) and Beatrice McGillivray -- both of Brooklyn, New York

Religious Congregation of the Sisters of St. Dominic

Entrance Date: 1954 Religious Profession: 1956

EDUCATION

Ph.D.	French	Graduate Center - City University of New York
M.A.	French	Catholic University of America
B.A.	French	St. John's University

Permanent New York State Certification - French and Spanish 7-12

Other Studies:

Spanish Language	St. John's University	1962
Russian Language	Molloy College	1963-1965
French Culture/Language	University of Paris	1970
French Literature	French Institute, NYC	1979

PROFESSIONAL EXPERIENCE

Vice President for Academic Affairs - Molloy College 1980-
Chief academic advisor to the President. Responsibilities include:

-- evaluating and administrating all academic affairs of the College
-- reviewing and evaluating existing academic programs, in cooperation with appropriate officers and committees and, upon approval of the President, modifying curricula to meet changing needs of current and potential students
-- reviewing proposals for new programs and transmitting them to the President and appropriate accrediting agencies.
-- reviewing and approving departmental budgets and those prepared by the offices under the responsibility of the Vice President for Academic Affairs
-- preparing and submitting accreditation reports - Middle States, New York State Master Plan, Periodic Review Reports, etc.
-- establishing criteria for data collection and making recommendations based upon interpretation of academic program reviews, Instructional Cost Analysis, enrollment impact on staffing and curriculum studies.

Other Duties/Responsibilities:

Curriculum Development:

1. Responsible for design of a Freshman Studies Program with a one-credit course obligatory for all freshmen (The College Experience). One of the course instructors.

2. Serve on all college curriculum committees and prepare proposals for State Education Department approval.

3. Work closely with academic departments on updating, revising and evaluation of offerings.

4. Teach upper division French courses.

Teacher Professional Preparation

1. Work closely with the Education Department to insure that students receive best possible preparation for entrance into the teaching profession.

2. Support and endorse work of College Faculty Development Program to foster professional exchange among faculty.

3. Encourage faculty to continue studies and obtain higher degrees.

4. Discuss graduate studies with students, write letters of recommendation for qualified individuals.

Articulation

1. Member of Middle States Standing Committee on School and College Relations - 7 years

2. Responsible for articulation agreements with Rockville Centre, Massapequa and Freeport Teachers Associations.

3. Direct program offering college credit to qualified high school students for courses taken while in high school.

4. Direct a large Associate Degree program for recent immigrants -- given both on campus and at off site locations.

Assessment

1. Serve as evaluator for Middle States. Co-chaired a visiting team to Catholic University of Puerto Rico - November 1992.

2. Chair Steering Committees for Self Study Reports and team visit preparation.

3. Developing a program for on going assessment ofteaching/learning at College.

4. Evaluator of Undeclared Majors Program - S.U.N.Y. at Farmingdale.

5. Judge in Newsday High Honors Competition on three occasions.

Teaching Experience

College Language Teacher - Molloy College 1970 - Present

1985 -	Professor
1979-1980	Associate Professor
1974-1979	Assistant Professor
1970-1974	Instructor

Presently teaching French Conversation. Have taught all levels and types of French courses, both language and literature.

Elementary School

St. Michael's	East New York	1951-1954
St. Catherine of Sienna	Franklin Square, N.Y.	1956-1960
St. Peter's School	Monticello, N.Y.	1960-1962
St. Boniface School	Elmont, N.Y.	1962-1963

Secondary School

Queen of the Rosary H.S.	Amityville, N.Y.	1963-1965
St. Agnes High School	Rockville Centre, N.Y.	1965-1969
St. Agnes Academic H.S.	College Point, N.Y.	1969-1970

PROFESSIONAL MEMBERSHIPS

American Association of Higher Education
Association of Academic Affairs Administrators
Middle States Committee on School and College Relations
Institute of Renaissance Interdisciplinary Studies
New York State Association of Foreign Language Teachers
Ph.D. Alumni Association CUNY - Vice President
Institute of Cross Cultural and Cross Ethnic Studies Board of Directors

PUBLICATIONS

"The Place of Foreign Languages in the College Curriculum", Bulletin, New York State Association of Foreign Language Teachers, November 1981.

"Articulation: The Why and the How", Bulletin, New York State Association of Foreign Language Teachers, May 1980

"Communication", Molloy Microcosm, March 1976

PAPERS PRESENTED

"The Coping Commuter" - Freshman Year Experience Conference. Baltimore, Maryland November 1991

"The Advantages of a Small College" - Glen Cove Kiwanis Club May 1991

BEST COPY AVAILABLE

APPENDIX 3

MEMORANDUM OF UNDERSTANDING

BETWEEN

MOLLOY COLLEGE

AND

ACADEMY FOR JEWISH EDUCATION

1991-1992

AGREEMENT

THIS AGREEMENT is entered into upon the day and date last below written, by and between MOLLOY COLLEGE (hereinafter "MOLLOY"), a non-profit institution of postsecondary education duly authorized to operate in the State of New York, and ACADEMY FOR JEWISH EDUCATION (hereinafter "AJE"), a non-profit New York corporation duly authorized to operate within the State.

WITNESSETH:

WHEREAS MOLLOY and AJE desire to enter into a cooperative agreement for the mutual expansion and enhancement of their educational programs;

THEREFORE BE IT AGREED AS FOLLOWS:

1. Academic Program: MOLLOY and AJE agree to work cooperatively in the development and implementation of academic programs under this Agreement. MOLLOY agrees to provide AJE with advice and guidance in the development and adaptation of one or more of its academic curricula in accordance with the curriculum priorities set forth by MOLLOY. AJE agrees to provide assistance and support to MOLLOY in the implementation of the academic programs, including the provision of instructional systems or modules which MOLLOY may at its option incorporate in

whole or in part into its instructional program. A description of the academic assistance to be provided by AJE under this Agreement is set forth in Attachment A. It is expressly understood and agreed that all aspects of the educational program established under this Agreement, including but not limited to the curriculum, course offerings, course content and academic evaluation, shall be subject to the final approval of MOLLOY.

2. Program Participants. AJE will counsel and identify prospective applicants to the programs developed and offered under this Agreement. Students accepted into these programs are required to meet the regular admission requirements of MOLLOY. Once admitted, they will be accorded all of the rights and privileges of fully matriculated MOLLOY students, including the use of all campus resources and facilities and the receipt of MOLLOY identification cards. Such students will earn MOLLOY credits for successfully completing courses taken under this Agreement.

3. Instructors.

a. AJE will submit to MOLLOY the names and credentials of qualified individuals who may serve as instructors under this Agreement. Such individuals are required to possess credentials appropriate to college-level instruction, as determined in the sole discretion of MOLLOY. Such individuals who meet the qualifications and standards of MOLLOY shall be eligible to serve as instructors for programs developed under this Agreement, shall be appointed by MOLLOY as adjunct faculty of MOLLOY with the title of Adjunct Lecturers, and shall also be employed by AJE as faculty members. Individuals recommended by AJE who do not meet the qualifications and standards of MOLLOY shall not serve as instructors of any programs developed under this Agreement. The determination whether any individual meets and continues to meet the qualifications of MOLLOY faculty, including the authority to terminate any such individual as a MOLLOY faculty member, shall be made in the sole discretion of MOLLOY.

b. The responsibility of individuals named as adjunct faculty members of MOLLOY under this Agreement will include, but not be limited to, classroom instruction, curriculum planning, lesson planning, monitoring student progress through periodic examinations and end-term examinations, and reviewing and evaluating student reports and independent projects. Adjunct faculty members of MOLLOY under this Agreement shall be subject to supervision by regular MOLLOY faculty.

c. MOLLOY shall offer partial tuition waivers to any person appointed as a MOLLOY adjunct faculty member under this Agreement, according to practices and procedures afforded MOLLOY faculty members as described in the MOLLOY Faculty Handbook.

d. Individuals appointed as adjunct faculty members of MOLLOY under this Agreement and who are faculty of AJE shall be compensated by AJE.

4. Liaison Personnel. MOLLOY and AJE will each designate a liaison person to assist in the implementation of these programs.

5. Technical Support. AJE shall provide MOLLOY with such technical support services, including but not limited to the use of facilities and equipment, as AJE and MOLLOY may mutually agree, as set forth in Attachment B of this Agreement.

6. Payments and Compensation.

a. Students enrolled in programs implemented under this Agreement shall pay all tuition and fees, as described in Attachment C, to MOLLOY, according to the tuition charges and payment schedules established by MOLLOY.

b. In consideration of the services provided by AJE under this Agreement, MOLLOY agrees to compensate AJE at a rate as set forth in Attachment C to this Agreement. Such compensation shall be paid to AJE in installments according to the schedule set forth in Attachment D to this Agreement. The dollar amount of each payment will depend on the funds received from the students for tuition and fees on that date. MOLLOY may withhold an installment payment to AJE on behalf of a student if MOLLOY has not received from that student the portion of the tuition's tuition and fees payment corresponding to that installment.

c. If MOLLOY withholds an installment payment to AJE on behalf of any student under this paragraph, MOLLOY shall remit such payment to AJE promptly upon receipt of that student's payment of the portion of the student's tuition and fee. If MOLLOY withholds an installment payment to AJE under this paragraph, MOLLOY shall promptly notify AJE in writing of such withholding and of the total amount paid to MOLLOY to date by that student.

7. Scholarship Assistance. In the event a student duly accepted into the program under this Agreement is unable to pay the full tuition and fees therefor from all sources reasonably available to the student, including but not limited to personal and family resources and such student financial assistance to which the student may be entitled, AJE shall award scholarship funds to the student to make up the difference in the amount the student pays and the full cost of tuition and fees. AJE shall remit any such scholarship funds to MOLLOY on behalf of the student. A duly accepted student shall at minimum mean one who attends classes for a minimum of five weeks.

8. Term of Agreement. The term of this agreement shall commence on the date this Agreement is signed by the parties, and shall end on June 30, 1992 unless sooner terminated as herein provided. This agreement may be renewed annually for

periods of one year commencing on July 1, 1992, provided the parties enter into a written agreement to that effect.

9. Termination.

a. MOLLOY may terminate this Agreement upon the failure of AJE to provide the services and facilities set forth above, or upon the termination by MOLLOY of the academic programs contemplated hereunder, provided MOLLOY shall provide AJE with sixty (60) days' written notice of intention to terminate for material failure to perform and six (6) months' written notice of intention to terminate on the basis of termination of the academic programs. In the event of termination for failure to perform, the termination shall be deemed withdrawn if AJE shall, prior to the expiration date of the notice of termination, remedy the default to the satisfaction of MOLLOY, as determined at MOLLOY's sole discretion.

b. AJE may terminate this Agreement upon the failure of MOLLOY to fulfill its obligations set forth above, or upon the termination by MOLLOY of the academic programs contemplated hereunder, or upon the termination by AJE of the services and facilities set forth above, provided that AJE shall provide MOLLOY with sixty (60) days' written notice of intention to terminate for material failure to perform and six (6) months' written notice of intention to terminate on the basis of termination of the academic programs by MOLLOY or of termination of the services and facilities by AJE. In the event of termination for failure to perform, the termination shall be deemed withdrawn if MOLLOY shall, prior to the expiration date of the notice of termination, remedy the default to the satisfaction of AJE, as determined at the sole discretion of AJE.

c. If this Agreement is terminated by either party for any reason, MOLLOY shall remain obligated to compensate AJE according to the terms set forth in paragraph 6 above and in Attachment D.

10. Notice. Any notice required under this Agreement to be given by one party to the other party shall be given to the President, when the notice is to be given to MOLLOY, and shall be given to the Dean when the notice is to be given to AJE.

11. Amendments. This Agreement may be amended or modified only upon the written consent of MOLLOY and AJE.

Agreed to this ______ day of ________________19______.

MOLLOY COLLEGE	ACADEMY FOR JEWISH EDUCATION
BY: ______________________________	BY: ______________________________
S. Janet A. Fitzgerald, O.P. President	Brenda Bodner President

ATTACHMENT A

AJE will provide the following academic assistance to MOLLOY:

1. Teaching faculty and support personnel, as approved by MOLLOY according to its established criteria.

2. Curriculum planning and development, including:
    a. Curriculum materials
    b. Audio-visual materials

ATTACHMENT B

AJE will provide the following technical support for MOLLOY:

1. Physical Facilities
   a. Appropriate Classrooms, Lecture Halls, Study Rooms, Offices
   b. Telephone Services
   c. Light, Heat and Power
   d. Complete Maintenance Service
   e. Building Cleaning and Repair
   f. Advertising and Printing
   g. Custodial Services
   h. Insurance

2. Ancillary Services
   a. Transportation Service
   b. Cultural Enrichment Programs, Including Trips to Museums, Concerts, Sight-seeing and Tours of various communities, to enhance the program of instruction.

ATTACHMENT C

1. Student tuition per semester shall be three thousand nine hundred dollars ($3,900.00) and registration and university fees per semester shall be fifteen dollars ($15.00), for a total tuition and fees charge per semester of three thousand nine hundred fifteen dollars ($3,915.00).

2. MOLLOY will compensate AJE at the rate of three thousand three hundred dollars ($3,300.00) per student for the Fall 1991 semester and three thousand three hundred dollars ($3,300.00) for the Spring 1992 semester for services provided under this Agreement.

Payments will be made to AJE as soon as Pell and TAP are received by Molloy College.

ATTACHMENT D

Compensation Schedule

Date of Installment	Amount of Installment	Minimum Payment that Must have Been Made by Student to MOLLOY before MOLLOY is Required to Remit this Installment to AJE (cumulative)
End of 1st week of semester	700.00	850.00
End of 3rd week of semester	700.00	1700.00
End of 5th week of semester	700.00	2550.00
End of 8th week of semester	700.00	3400.00
Last day of semester	500.00	4000.00

ADDENDUM

AJE will reimburse MOLLOY COLLEGE for the salaries of instructional faculty paid by the COLLEGE at the following rate: $450.00 per credit hour plus FICA

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 30

AFFIDAVIT
OF
DONALD S. BLUESTONE

I, Donald S. Bluestone, of New York, New York, make the following statement to the Staff of the United States Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs. I make this statement in lieu of formal deposition by the Subcommittee, for which I have received a notice and subpoena.

My name is Donald S. Bluestone. I am the executive director of the Mosholu-Montefiore Community Center, which is located at 3450 De Kalb Avenue, Bronx, New York. The Community Center is a not-for-profit enterprise which services the Norwood - Mosholu Parkway section of the Bronx. Our annual budget is approximately $4 million. We receive Federal and State Government support, private donations, and some of our revenue is generated from fee for service programs. The community center has been providing a wide range of programs and services since 1944, striving to assist the community, which is torn apart by racism, ethnic isolation, drugs, poverty, and poor health by providing a warm and caring professional staff for newborns to the elderly. While we receive a major part of our funding from the UJA-Federation of Jewish Philanthropies, we are open to everyone, stressing religious, racial, ethnic, and cultural respect to all groups who use the Community Center.

Some of the services and programs offered at the Community Center are specifically designed to help immigrants in getting settled in the United States. Due to the very large influx of Russian immigrants here, our efforts are focused on assisting this group.

Our Russian Jewish Settlement and Outreach Center provides help with apartments, jobs, social clubs, adjusting to the neighborhood, making new friends, child care, training, and in learning English.

During the early summer of 1991, we were providing English language classes to approximately 100 Russian immigrants, at no cost to the student. We were using volunteer instructors to teach "survival" (very basic) English. The need for this service was, and is, evident in the community, and I spread the word that we needed more volunteer instructors.

In the late summer, 1991, I received a call from Rachel Altheim, representing the Sara Schenirer Teachers Seminary, the main campus of which is located in Brooklyn. Rachel Altheim told me that Sara Schenirer could arrange a program whereby the Russian immigrants could receive a $400-per-year stipend and learn English at the same time; there would be no cost to the student.

We agreed that the Sara Schenirer Teachers Seminary would, using its professional faculty, teach English to any of the former Russians in the community. Most of the targeted population are elderly, and their educational background varies widely. Some appear to have had limited formal education.

In the fall of 1991, Sara Schenirer Teachers Seminary enrolled hundreds of Russian immigrants in the English classes. The students were very pleased with the instruction, and particularly happy that they were being paid to attend the classes. Enrollment took place at the Community Center, and Center employees assisted Sara Schenirer employees in filling out the forms with the students. One part of the enrollment process consisted of having the student sign a Federal Pell Grant application.

As time went on, I began hearing, through my employees and some of the students, that students were having a difficult time in learning the languages that Sara Schenirer was teaching to them. I then discovered that the students were not only being taught English, but also Hebrew. I was very concerned about this, because now these Russians - most of whom were elderly - were expected to learn two separate alphabets and languages. I felt and still feel that this is ridiculous. I cannot imagine how these poor, unfortunate refugees could be expected to learn two foreign languages simultaneously.

At the same time, I learned that the classes were being expanded to include not only the English and Hebrew languages, but also Orthodox Jewish religion. The classes were not informing these people of their religious "roots" but were, I was told, teaching them to live Orthodox lives. I was told that the students were being told that they must live Kosher lives and that their households could be inspected to make sure they were living Kosher. I became very concerned about this information. These students told me that they really like learning about the Bible, but some were not prepared - nor did they wish - to convert to Orthodox Judaism.

This information caused me to complain to some of the instructors. I told them that I had heard that some of the students were concerned about being expected to learn Hebrew, a language that would be of very limited use to them, and about the complaints concerning their feeling they were being forced to abide by strict Orthodox Judaism. The instructors backed off a little, and things returned to normal, as far as I could tell. The semester ended in the summer of 1992, and Sara Schenirer did not offer language instruction to the students during the summer.

In the fall of 1992, Sara Schenirer did not return to the Community Center to offer the classes, however they continued to enroll students in their program. I called to ascertain why the school was no longer offering the English programs at the Community Center, and was told that the school wanted better classrooms - they had moved to the Kingsbridge Center of Israel, an Orthodox synagogue. The school later moved the classes to the Bronx House Jewish Community Center, located at 990 Pelham Parkway South, because they had to use an authorized extension site. I was concerned that the students had to travel so far for the instruction, especially since we offered other programs for the same population at our community center. Sara Schenirer is now operating buses to transport the students to and from their classes at the Bronx House. Many immigrants have not returned to the other programs at our community center. I have been told by members of the immigrant community that they have been discouraged from returning to Mosholu-Montefiore Community Center, because we service a broad spectrum of people, not just Jewish patrons. I also discovered that the school was paying rent to the Bronx House Community Center. This was never the case at the Mosholu-Montefiore Community Center; we never charged or received payment of any kind from the Sara Schenirer School, and there was never any charge to the student.

I became so concerned about this situation that I wrote to the school on October 2, 1992, complaining about their exploitation of the Russian immigrants and the Federal student aid program. Attachment Number 1 to this affidavit is a copy of that letter.

Shortly thereafter, I received a letter from Sara Schenirer Teachers Seminary, from Rabbi Michoel J. Meisels, the Dean and President, dated October 9, 1992, defending their program. A copy of that letter is Attachment Number 2 to this affidavit.

I also provide to the Subcommittee, as Attachment Number 3 to this affidavit, a copy of a letter that Sara Schenirer Teachers Seminary sends to its students, advising the students that they are eligible for a $2,400 Pell Grant, and that the grant is being credited to their outstanding tuition balance.

The letter goes on to say that any excess Pell Grant funds will be refunded to the student. In a separate paragraph, the school advises the student that the student will receive an institutional scholarship in the amount of $200.00 per semester, leaving the impression that the $200 is a school scholarship above and beyond the Pell Grant award. I do not believe this is the case. Since none of the students pay any money for the classes, I believe the school is merely paying off the students with some of the students' own Pell Grant award.

I find this situation intolerable and disgraceful. I am very concerned that these immigrants, most of whom survive on Government programs to begin with, are being used by the school so that the school may benefit from the Federal Program.

I have read, reviewed, and initialed each page of this statement consisting of five pages, and I affirm, to the best of my knowledge and belief, that the statements contained herein are true and correct.

Attachments

Number 1:	Letter, October 2, 1992, from Donald Bluestone to Rabbi Maisel (sic) Sara Scheniren (sic) School.
Number 2:	Letter, October 9, 1992, from Rabbi Michoel J. Meisels, Sara Schenirer Teachers Seminary, to Mr. Donald Bluestone.
Number 3:	Financial Aid Award Letter, Sara Schenirer Teachers Seminary to "Dear Student."

Donald Bluestone

Donald S. Bluestone

Date: ____________________

Affirmed to and subscribed before me
this ____ day of __________, 1993.

____
Notary Public

[1]My commission expires:__________.

[illegible]
Notary Public, State of New York
No. [illegible]
Certified in [illegible] County
Commission Expires [illegible]

MOSHOLU MONTEFIORE COMMUNITY CENTER [illegible]

October 2, 1992

Rabbi Meisel
Sara Schenirer School
4622 Fourteenth Avenue
Brooklyn, New York 11219

Dear Rabbi Meisel:

This letter is to inform you that the Mosholu Montefiore Community Center will not tolerate your exploitation of the Russian community in Norwood and Kingsbridge Heights.

You have been using Government money to force these poor unfortunate people to learn religion, Biblical Hebrew, and Kashrut, all taught by Rabbis. You are using Government rental fees to support religious institutions when public ones are available. You are paying bribe money of $400 per year per student for these new Jewish immigrants to come to your programs when you know very well this money is for books (which you do not require they buy); and, over 95% of the people you are teaching, will never get a degree in Higher Education due to their own limits and the poor quality of the teachers you employ, plus your emphasis on religion.

You are using Government funds to convert these new immigrants to Orthodox Judaism, which is completely against the separation of Church and State principles in this country.

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At the Mosholu Montefiore Community Center, we have complained for over a year that you are forcing people to learn Hebrew while they are learning English, and, forcing them to learn two new alphabets at the same time. Your Rabbi chastises these people for not eating Kosher food and for being married to non Jews. Our complaints have reached deaf ears and you moved out of our building to get away from us.

In good conscience, we cannot let you continue to use tax payers' money for your own ends. We plan on reporting your organization to the New York State Education Department unless you immediately end your programs in our community, including the Kingsbridge Center for Israel site (an Orthodox Temple) which you are now trying to steer our people to.

When the Mosholu Montefiore Community Center invited your organization in over 1 1/2 years ago, we had hoped you would teach English to our community of growing immigrants from the former Soviet Union and not use this trust for your own agenda. We never even charged you rent.

The Government does not take kindly to this manipulation of tax payers' money as witnessed by the current scandal with Rockland Community College's new square site and their liability of ten million dollars back to New York State for using funds the same way you are. This must stop.

Yours Truly,

Don Bluestone, M.S.W.
Executive Director

B/ng

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SARA SCHENIRER
TEACHERS SEMINARY

6622 - 18th Avenue · Brooklyn, New York 11219 · Telephone (718) 633-8557-8 · Fax (718) 435-0115

Mrs. Malka Parnesky
Menaheles
Samuel B. Tress
Board of Directors

* * *

Sara Schenirer Seminary
New York
Seminar Yerushalayim
Jerusalem
Immigrant Culture Program
New York

Rabbi Michael J. Meisels
Dean & President

ב״ה

October 9, 1992

Mr. Don Bluestone, Executive Director
Mosholu Montefiore Community Center
3450 DeKalb Avenue
Bronx, New York 10467

Dear Mr. Bluestone:

Although I have never had the pleasure of meeting you, I do recognize your name and have heard about your work in the Bronx.

While I appreciate and share your concern for the welfare of the people you speak about, I am offended by your accusations and by your gross misinformation. Had you taken the opportunity to inquire or to read our catalogue, you would have learned that we are mandated and accredited to offer a program of studies in Jewish Culture, and that is exactly what we are doing. Such a curriculum, must by law and does, feature courses in Hebrew, in Jewish customs, and in other areas related to Jewish culture, traditions, etc.

I quote here from our catalogue:

> "Our goal is to attract interested and committed individuals who seek to systematically study their faith and their rich culture and to equip them with analytic and thought skills that will allow them to study and teach Jewish history, philosophy, Talmudic law, Bible, prayer, Hebrew language, and culture.
>
> In translating this mission and applying these principles to the student, both man and woman, entering the Immigrant Culture Program, a curricular approach was developed to suit the

> background, life-experience, and knowledge of the immigrant student."

This is our mandate, and we are proud of our meeting this mandate. To compare our government mandate to that of Rockland College which offers a degree in secular studies is born of ignorance and makes me question your knowledge and your motivation. We introduce the student to Jewish Culture and do not force religion upon him, as you suggest.

In our concern for our student's welfare and financial needs, we offer a scholarship which is to be used for their personal needs, and is not mandated for textbooks. This, too, is entirely within the confines of educational law, as is our entire program.

We are proud of our work and invest much time and effort to make it effective. Our program stands up to careful scrutiny, as I would hope and expect that your many and profitable programs in the Mosholu area do also, and that you are indeed providing all the social services which are expected of them.

Sincerely,

Michael Meisels

Rabbi M. Meisels,
Dean

SARA SCHENIRER TEACHERS SEMINARY
4622 14 AVENUE BROOKLYN, N.Y. 11219
718 633-8557-8

FINANCIAL AID AWARD LETTER

Dear Student:

Based on the information you have provided to our office, you will be eligible to receive a Pell Grant in the amount of $2400.00 for the 1992/93 academic year.

This award is subject to your remaining a full time student, maintaining satisfactory academic progress, and the submission of any other necessary documents requested by the financial aid office.

This award will be credited to your outstanding tuition balance. Any excess will be refunded to you.

Also, based on your need, you will be receiving an institutional scholarship in the amount of $200.00 per semester.

If you have any questions, please feel free to call or come in to the office.

Sincerely yours,
FINANCIAL AID OFFICE

BEST COPY AVAILABLE

ATTACHMENT I

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 38

HARTSTEIN'S CLOTHING
5513 New Utrecht Avenue
brooklyn, NY 11219
(718) 871-6440

October 3, 1991

To whom it may concern:

This is to cerfity that Ms. Rachel Geffen was employed in our company as a Alternations Tailor and was paid a salary of Six Thousand Three Hundred ($6,300.00) Dollars for the year 1990.

Sincerely,
HARTSTEIN'S CLOTHING

M. Hartstein

M. Hartstein

Attachment I

The Aperion
EXCLUSIVE GLATT KOSHER CATERING FOR ALL OCCASIONS
815 KINGS HIGHWAY
BROOKLYN,NEW YORK 11223
(718)339-4466

September 5, 1990

TO WHOM IT MAY CONCERN:

Dear Sir/Madam:

This letter confirms that Mr. Jaish Waknin was employed by our company and was paid a salary of Eight Thousand ($8.000.00) Dollars for the year of 1989.

Sincerely,

Isaac Borzikowsky

ATTACHMENT II

The Aperion
EXCLUSIVE GLATT KOSHER CATERING FOR ALL OCCASIONS
815 KINGS HIGHWAY
BROOKLYN,NEW YORK 11223
(718)339-4466

June 24, 1991

TO WHOM IT MAY CONCERN:

Dear Sir/Madam:

This letter confirms that Mr. Jaish Waknin was employed by our company and was paid a salary of Eight Thousand ($8,000.00) Dollars for the year of 1990.

Sincerely,

Isaac Bozikowsky

ATTACHMENT X

KOSHER "R" US
4814 - 13th Avenue
Brooklyn, NY 11219
(718) 851-1759

October 10, 1991

TO WHOM IT MAY CONCERN:

We do hereby confirm that Mr. David Grynsztajn worked in our company, KOSHER"R" US, and was paid a salary of Eight Thousand ($8,000.00) Dollars for the year 1990.

Sincerely,

Amnon Levy

Amnon Levy

[redacted]

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 39

My name is Sara Hoffman
I live on 61 Harrison Ave.
My SS is 11658 8326, 11/22/69.
I graduated from high school in
'85. I never attended Touro College
or Bais Fruma & I was enrolled in
UTA. & Square Program, on Khata located
on Heyward.

Sara Hoffman

Witness: William J Hamel 8/30/93

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United States Senate
COMMITTEE ON
GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

Senate Permanent Subcommittee on Investigations
EXHIBIT # 41

July 8, 1993

Mr. Simche Waldman
Bais Fruma
4601 14th Avenue
Brooklyn, New York 11219

Dear Mr. Waldman:

Your appearance pursuant to Subpoena #E02083 served on you to appear for a deposition in Washington, D.C. before the United States Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs scheduled for Tuesday, July 13, 1993, has been rescheduled for 11:00 a.m., Tuesday, July 20, 1993. You remain subject to the legal requisites of the subpoena. This letter is the only notification you will receive of the new date for your appearance.

Sincerely,

Sam Nunn
Sam Nunn
Chairman
Permanent Subcommittee
on Investigations

MEISSNER, KLEINBERG & FINKEL
275 MADISON AVENUE
NEW YORK, NEW YORK 10016
(212) [illegible]
TELECOPIER (212) 686-0252

GEORGE S. MEISSNER
RONALD M. KLEINBERG
RICHARD A. FINKEL

PETER D. CLOSE*
SAMUEL ROSENBERG
ALAN C. TRACHTMAN*
COUNSEL

*ADMITTED IN NEW YORK AND NEW JERSEY

RECEIVED BY
SENATE PERMANENT
SUBCOMM ON INVESTIGATIONS
JUL 21 1993
MAJORITY OFFICE

DATE: *JULY 20, 1993* *TIME: A.M./P.M.* -

TO: *ELEANORE J. HILL, ESQ.*

FIRM: *PERMANENT SUBCOMITTEE ON INVESTIGATIONS*

FAX #: *(202) 224-1972*

FROM: *GEORGE S. MEISSNER*

MATTER:

NUMBER OF PAGES TO FOLLOW: *1* *MATTER #:*

- _ *FOR YOUR INFORMATION*
- _ *FOR YOUR APPROVAL*
- _ *YOUR COMMENTS PLEASE*
- _ *AS PER CONVERSATION*
- _ *REVIEW & CALL ME*
- _ *REVIEW & FILE*
- _ *PLEASE CALL*
- _ *PHOTOCOPY/RETURN PHOTOCOPY WITH YOUR SIGNATURE*

REMARKS:

IF YOU DO NOT RECEIVE ALL MATERIALS
BEING TRANSMITTED, PLEASE CALL THE
TELECOPY OPERATOR, ALYSSA
TELECOPY REPLY TO: (212) 686-0252

PLEASE TAKE NOTICE: THIS FAX IS CONFIDENTIAL AND IS INTENDED ONLY FOR THE PARTY ABOVE-NAMED.

BEST COPY AVAILABLE

MEISSNER, KLEINBERG & FINKEL
275 MADISON AVENUE
NEW YORK, NEW YORK 10016
(212) 889-8600
TELECOPIER (212) 889-0282

GEORGE S. MEISSNER
DONALD M. KLEINBERG
RICHARD A. FINKEL

PETER D. CLOSE*

SAMUEL ROSENBERG
ALAN C. TRACHTMAN*
COUNSEL

*ADMITTED IN NEW YORK AND NEW JERSEY

July 20, 1993

VIA FACSIMILE
(202) 224-1972

Eleanore J. Hill, Esq.
Permanent Subcommittee on Investigations
Committee on Government Affairs

Dear Ms. Hill:

This is to confirm our conversation requesting an adjournment of Rabbi Simcha Waldman's appearance for a deposition to be conducted by the staff of the U.S. Senate Subcommittee. It is understood that Rabbi Waldman remains subject to the legal requisites of the subpoena.

Thank you for your kind cooperation.

Very truly yours,

George S. Meissner

GSM/ara

MEISSNER, KLEINBERG & FINKEL
275 MADISON AVENUE
NEW YORK, NEW YORK 10016
(212) 888-8100
TELECOPIER (212) 888-0287

George S. Meissner
Ronald M. Kleinberg
Richard A. Finkel

Peter D. [illegible]*
Samuel Rosenberg
Alan C. [illegible]*
Counsel
*Admitted in New York and New Jersey

file

RECEIVED BY:
SENATE PERMANENT
SUBCOMM ON INVESTIGATIONS
JUL 30 1993
MAJORITY OFFICE

DATE: July 30, 1993 TIME 3:30 p.m.

TO: Alan Edelman, Esq.

FIRM: Permanent Subcommittee on Investigations

FAX#: 202-224-1972

FROM: Ronald M. Kleinberg, Esq.

MATTER:

NUMBER OF PAGES TO FOLLOW: 4 MATTER: 4176

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MEISSNER, KLEINBERG & FINKEL
275 MADISON AVENUE
NEW YORK, NEW YORK 10016
(212) [illegible]
TELECOPIER (212) [illegible]

GEORGE S. MEISSNER
RONALD M. KLEINBERG
RICHARD A. FINKEL

PETER D. CLOSE*

SAMUEL ROSENBERG
ALAN C. TRACHTMAN*
COUNSEL

*ADMITTED IN NEW YORK
AND NEW JERSEY

July 30, 1993

Via Fax No.: 202-224-1972

Alan Edelman, Esq.
Permanent Subcommittee on Investigations

Dear Mr. Edelman:

This is to confirm that the request to adjourn the deposition of Rabbi Simcha Waldman was based upon the Jewish Law prohibiting any participation in legal proceedings during the Jewish month of Av.

For your consideration I am submitting herewith a letter from a noted authority on Jewish law, Rabbi Shmuel Wosner, explaining the basis for our request.

My partner Mr. Meissner has advised me that he is meeting with David Buckley on August 5, 1993, and will discuss among other matters the adjourned date for the deposition of Rabbi Waldman.

Very truly yours,

Ronald M. Kleinberg

EASE TRANSLATIONS
1307 53RD STREET
BROOKLYN, NEW YORK 11219
(718) 972-5700 FAX: (718) 435-5916

CERTIFICATE OF ACCURACY
STATE OF N.Y.

COUNTY OF Kings

I, SORA LUDMIR BEING DULY SWORN, DEPOSES AND SAYS:

That I am familiar with both the English and the Hebrew languages.

That I have made the attached translation from the annexed document in the Hebrew language and hereby certify that the same is a true and complete translation to the best of my knowledge, ability and belief.

Sworn to me this____day of______

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**RABBINICAL COURT
CHIEF JUSTICE RABBI SHMUEL WOSNER
RABBI OF BNEI BRAK AND DEAN OF
RABBINICAL COLLEGE**

On this 3rd day month of Av, 5753
(July 21, 1993)

To Rabbi Simcha Waldman:

Greetings and peace be with you!

This is in regard to the question asked of the Rabbinical Authorities pertaining to the prohibition of any participation, involvement or inquiries in a court of law during the month of Av.

This ruling is based upon the Talmud, Tractate Taanus, page 26; Shulchan Oruch (Code of Jewish Law) Section 551, and the Mogen Avrohom (Great Rabbinical Authority) has ruled likewise. Similarly, numerous Rabbinical Authorities have ruled that this prohibition includes the entire month of Av.

In regard to the giving over of names of other people for inquiries, this is strictly forbidden, as explained in the Talmud Tractate Gitin, page 7 and is derived from the words of King David, Psalm 75. The Rambam (Maimonides) has ruled in the Section of the Law of Damages. The Shulchan Oruch (Code of Jewish Law) Section 388, subsection 19, also states this prohibition. The Talmud Tractate Rosh Hashono, page 17, enumerates the punishments for this transgression, and restated in the Shulchan Oruch (Code of Jewish Law) as well in the Sma's commentary on the Shulchan Oruch.

With the blessings of the Torah and its Sages,

RABBI DAVID COHEN,
Secretary

Official Signature and Stamp

Translation of Official Stamp as follows:

*Rabbinical Court
Chief Justice Rabbi Shmuel Wosner, may he live and be well,
Rabbi of Bnei Brak and Dean of Rabbinical College*

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בית הוראה
בראשות [illegible]
[illegible]

ב"ה. יום ג' אלול תשנ"ג

כבוד הרב שמחה וולדמן נ"י
שלום וברכה

הנני מה שבקש לשמוע את חוות דעת הדיינים הגאונים שליט"א.

א. אין מן הראוי לעשות לשמחות ונסיעות וכד' משנכנס אב. והוא מגמ' תענית כו. ונפסק בשו"ע ס' תקנא. ובפסק המג"א. וכן כתבו הפוסקים אחריו שהכוונה כל חודש אב.

ב. הדינים לאסור שמיעת נגינה אחרי החורבן - הגלות תמיד עומד כמבואר בגמ' גיטין דף ז ע"א ממרדכי דוד המלך זה הנה.
ונפסק ברמב"ם הלכות תענית, ובשו"ע או"ח ס' תק"ס סעי' ג'.
ועי' בגמ' סוטה דף מ"ח ע"א ובתוס' שם, ובחומר הדבר.
ומובא בשו"ע הנ"ל ובמג"א ובמ"ב שם.

בברכת התורה ולומדיה.
דוד כהן, מזכיר

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SAM NUNN, GEORGIA
CARL LEVIN, MICHIGAN
JIM SASSER, TENNESSEE
DAVID PRYOR, ARKANSAS
JOSEPH I. LIEBERMAN, CONNECTICUT
DANIEL K. AKAKA, HAWAII
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THAD COCHRAN, MISSISSIPPI
JOHN McCAIN, ARIZONA

LEONARD WEISS, STAFF DIRECTOR
FRANKLIN G. POLK, MINORITY STAFF DIRECTOR AND CHIEF COUNSEL

United States Senate
COMMITTEE ON
GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

September 10, 1993

George Meissner, Esquire
Meissner, Kleinberg and Finkel
275 Madison Avenue
New York, New York 10016

Re: Deposition of Rabbi Simcha Waldman

Dear Mr. Meissner:

Pursuant to conversations between the Subcommittee staff and yourself, this is to notify you that the deposition of your client, Rabbi Simcha Waldman, has been rescheduled for Tuesday, September 14, 1993 at 10:00 a.m.

As you will recall, this deposition was originally scheduled for July 13, 1993, but was adjourned at your request until July 20, 1993. You then requested a second adjournment of Rabbi Waldman's appearance for the thirty days of the Hebrew month of Av. This second request was also granted. It was understood by all parties that in granting each adjournment Rabbi Waldman remained subject to the legal requisites of the subpoena originally served upon him.

We have previously sent you an outline of potential areas of inquiry which the staff may pursue during Rabbi Waldman's deposition. I emphasize, however, that this list is not meant to be inclusive, and that the provision of this list in no way limits the staff in its ability to pursue other areas of inquiry.

Sincerely,

Sam Nunn

Sam Nunn, Chairman
Permanent Subcommittee
on Investigations.

SN/aem

MEISSNER, KLEINBERG & FINKEL
275 MADISON AVENUE
NEW YORK, NEW YORK 10016
(212) 889-6800
TELECOPIER (212) 686-0252

George S. Meissner
Ronald M. Kleinberg
Richard A. Finkel

Peter D. Clark*

Samuel Rosenberg
Alan C. [illegible]
COUNSEL

*ADMITTED IN NEW YORK AND NEW JERSEY

DATE: September 13, 1993 *TIME:* 12:[illegible]*P.M.*

TO: Eleanore J. Hill, Esq.

FIRM: Permanent Subcommittee on Investigations
Committee on Government Affairs

FAX #: 202-224-1972

FROM: Ronald M. Kleinberg, Esq.

MATTER:

NUMBER OF PAGES TO FOLLOW: 1 *MATTER #:*

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George S. Meissner
Ronald M. Kleinberg
Richard A. Finkel

Samuel Rosenberg
Alan C. [illegible]*
Counsel

*Admitted in New York and New Jersey

September 13, 1993

Via Fax No.: 202-224-1972

Eleanore J. Hill, Esq.
Permanent Subcommittee on Investigations
Committee on Government Affairs

Dear Ms. Hill,

Upon returning to my office from Court this morning, I reviewed your Committee's letter addressed to Mr. Meissner requesting the appearance of Rabbi Waldman before the Permanent Subcommittee on Investigations. This letter requested the appearance of Rabbi Waldman on September 14, 1993.

Although it is true that the High Holy Days of Rosh Hashonah will formally commence on Wednesday, the repenting period commenced on this past Saturday evening.

Therefore, we would respectfully request an adjournment of Rabbi Waldman's appearance presently scheduled for September 14, 1993.

We hope that if you grant an adjournment we will be able to achieve an accomodation of the needs of the Committee along with the requirements of Jewish Law.

Very truly yours,

Ronald M. Kleinberg

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LEONARD WEISS, STAFF DIRECTOR
FRANKLIN G. POLK, MINORITY STAFF DIRECTOR AND CHIEF COUNSEL

United States Senate
COMMITTEE ON
GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

September 14, 1993

George Meissner, Esquire
Meissner, Kleinberg and Finkel
275 Madison Avenue
New York, New York 10016

Re: Deposition of Rabbi Simcha Waldman

Dear Mr. Meissner:

In light of your representations as to Rabbi Waldman's commitments in the days immediately preceding the Rosh Hashanah holiday, the Subcommittee has acceded to your request to postpone the Rabbi's deposition from September 14, 1993 to September 21, 1993 at 11:00 a.m. Rabbi Waldman remains subject to the subpoena originally served upon him, and it is expected that he will appear on the 21st.

Sincerely,

Eleanore J. Hill

Eleanore J. Hill
Chief Counsel
Permanent Subcommittee
on Investigations

EJH/am

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SAMUEL ROSENBERG
ALAN C. TRACHTMAN*
COUNSEL

*ADMITTED IN NEW YORK
AND NEW JERSEY

October 26, 1993

Senator Sam Nunn
United States Senate
Permanent Subcommittee on Investigations
100 Russell Senate Office Building
Washington, D.C. 20510-6250

Re: Testimony of Rabbi Simcha Waldman

Dear Senator Nunn:

I received your letter of October 26, 1993 in which you indicate that Rabbi Waldman must appear before the Permanent Subcommittee on Investigation on Thursday, October 28, 1993 at 9:00 a.m.

As I have previously advised your staff, compelling Rabbi Waldman to appear personally in Washington D.C. would not serve any useful purpose since he will assert his constitutional privileges.

As you know, in recent months, this office sought to accommodate your committee's legitimate concerns, while at the same time respecting Rabbi Waldman's religious principles. It was always our view, that with the assistance of local Community Leaders and Rabbinical authorities, progress towards a mutually acceptable solution could have been reached. In fact, your staff outlined a potential area of inquiry which could have satisfied the Committee's needs without violating our client's religious principles. However, in your September 10, 1993 letter you thwarted this effort.

After you rejected our attempt to reconcile outstanding issues, we had no other alternative but to advise your staff that if Rabbi Waldman is required to testify at a public hearing, he would assert his constitutional privileges. As you know, your staff has previously excused Rabbi Waldman's appearance to be deposed in Washington, D.C., for this precise reason. Therefore, I hope that you will excuse Rabbi Waldman from appearing on October 28, 1993, since no legislative purpose would be served by subjecting him to public ridicule.

Senator Sam Nunn
Page Two
October 26, 1993

However, if you deny this application, we respectfully request, pursuant to Rule 11 of the Rules of Procedure of your Committee, that no cameras, motion pictures, video or microphones be permitted during Rabbi Waldman's appearance.

I anxiously await your earliest reply.

Very truly yours,

George S. Meissner

GSM/ara

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GEORGE S. MEISSNER
RONALD M. KLEINBERG
RICHARD A. FINKEL

SAMUEL ROSENBERG
ALAN C. TRACHTMAN*
COUNSEL

*ADMITTED IN NEW YORK AND NEW JERSEY

DATE: *OCTOBER 26, 1993* *TIME: A.M./P.M. - 6:00*

TO: *SENATOR SAM NUNN*

FIRM: *PERMANENT SUBCOMITTEE ON INVESTIGATIONS*

FAX #: *(202) 224-1972*

FROM: *GEORGE S. MEISSNER*

MATTER:

NUMBER OF PAGES TO FOLLOW: 2

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**Senate Permanent Subcommittee
on Investigations**

EXHIBIT # 58

Year	Name of Off-Site Group	Molloy Received	Off-site Institutional Aid	PELL Award
1987-88	Academy for Jewish Education	$33,550	$30,200	$60,725
1987-88	Long Island Seminary	$16,500	$22,052	$22,175
	TOTAL FOR 1987-88	$50,050	$52,252	$82,900
1988-89	Torah Academy - L.I. Seminary	$43,450	$86,199	$87,153
1988-89	Torah Academy - Academy for Jewish Education	$81,950	$157,599	$162,125
	TOTAL FOR 1988-89	$125,400	$243,798	$249,278
1989-90	Torah Academy - Academy for Jewish Education	$63,350	$112,755	$128,250
1989-90	Torah Academy - L.I. Seminary	$49,300	$111,711	$91,050
	TOTAL FOR 1989-90	$112,650	$224,466	$219,300
1990-91	Kollel Birchas Yaakov - DARS	$62,250	$77,187	$83,950
1990-91	I.R.E.E.	$360,000	$527,511	$483,915
1990-91	Torah Academy - Long Island Seminary	$49,200	$133,669	$89,350
1990-91	Torah Academy - Academy for Jewish Education	$45,000	$79,086	$115,514
	TOTAL FOR 1990-91	$516,450	$817,453	$772,729
1991-92	Yeshiva of Eastern Parkway (Kass/kallus)	$6,900	$109,425	$27,600
1991-92	Councel of Jewish Organinations	$58,500	$162,140	$64,150
1991-92	Torah Academy	$72,600	$137,482	$132,525
1991-92	I.R.E.E.	$646,500	$1,065,715	$896,044
1991-92	Kollel Birchas Yaakov (DARS, Weider)	$369,000	$501,113	$574,225

1991-92	Jewish Institute for New Americans	$27,000	$63,226	$34,225
1991-92	Metropolitan Education Center	$618,750	$1,060,528	$808,525
	TOTAL FOR 1991-92	$1,799,250	$3,099,629	$2,537,294
1992-93	Adult Learning Center	$25,500	$74,538	$36,000
1992-93	Jewish Institute for New Americans	$91,500	$223,575	$113,325
1992-93	Academic Learning Center	$30,750	$125,308	$28,800
1992-93	Torah Academy - Long Island Seminary	$36,000	$73,059	$46,525
1992-93	English Learning Systems	$224,250	$564,610	$348,750
1992-93	C.A.R.E.	$144,000	$399,268	$141,450
1992-93	Council of Jewish Organizations	$243,750	$462,539	$338,900
1992-93	Metropolitan Education Center	$792,750	$2,557,283	$446,831
1992-93	Peninsula Education Center	$112,500	$461,041	$38,150
1992-93	I.R.E.E.	$873,000	$1,655,331	$1,289,450
	TOTAL FOR 1992-93	$2,574,000	$6,596,552	$2,828,181
GRAND TOTALS:		$5,177,800	$11,034,150	$6,689,682

9/9/93

ACCET Accredited Avocational Schools

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 68

Associated Beth Rivkah Schools 310 Crown Street Brooklyn, NY 11225	02506000
Beth Jacob Hebrew Teachers College 1213 Elm Avenue Brooklyn, NY 11230	00476700
Bnai Arugath Habosem 36 Rita Avenue Monsey, NY 11219	03012200
Bnos Jerusalem 1273 53rd Street Brooklyn, NY 11219	02214600
Bnos Research Institute for Training and Education 638 Bedford Avenue Brooklyn, NY 11211	03070000
Academy for Creative Learning for Adults 4206 15th Avenue Brooklyn, NY 11219	02302700
Bais Fruma 4601 14th Avenue Brooklyn, NY 11219	02236000
Beth Medrash Eeyun Hatalmud 14 Fred Eller Drive Monsey, NY 10952	01166800
Congregation Shalom Elizer dba Western Institute for Traditional Studies 316 North La Brea Los Angeles, CA 90036	03080400
Derech Ayson Rabbinical Seminary 802 Hicksville Road Far Rockaway, NY 11691	01201000
Institute for Judaic and Talmudic Development 1654 43rd Street Brooklyn, NY 11204	03074000
Jesode Hatorah 131 Lee Avenue Brooklyn, NY 11211	02352300

Long Island Seminary of Jewish Studies for Women 444 Beach 6th Street Far Rockaway, NY 11691	01199300
Northeast Center for Judaic Studies 5715 16th Avenue Brooklyn, NY 11204	00481000
Sara Schenirer Seminary 4622 14th Avenue Brooklyn, NY 11219	01199500
Seminar L'Moros Bais Yaakov 4409 15th Avenue Brooklyn, NY 11219	02556700
United Ger Institutions dba Moreshet Institute for Traditional Studies 1975 51st Street Brooklyn, NY 11204	02543500
Traditional Jewish Studies Center 5801 15th Avenue Brooklyn, NY 11219	03070100
United Talmudic Academy of Monsey 206 Viola Road Monsey, NY 10952	02303900
Academy forJewish Education 66-05 108th Street Forest Hills, New York 11375	02545300
Belzer Yeshiva 4814 16th Avenue Brooklyn, New York11204	01199100

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ACCET-Accredited Avocational Schools

OPEID	School Name	Avocational Program Actions*	Other EA/LT Actions
02506000	Associated Beth Rivak Schools Brooklyn, New York		
02303700	Academy for Creative Learning for Adults Brooklyn, New York		
02545300	Academy for Jewish Education Forest Hills, New York	1/13/94 DL 1/13/94 EA	
02236000	Bais Fruma Brooklyn, New York		11/15/93 EA 12/14/93 TF (TF Hearing Requested 12/23/93) 1/3/94 AW
01199100	Belzer Yeshiva Brooklyn, New York		
00476700	Beth Jacob Hebrew Teachers College Brooklyn, New York	1/13/94 DL 1/13/94 EA	
01166800	Beth Medrash Eeyun Hatalmud Monsey, New York		
03012200	Bnai Arugath Habosem Monsey, New York	1/13/94 DL 1/13/94 EA	
02241600	Bnos Jerusalem Brooklyn, New York		10/6/93 EA 11/4/93 TF (TF Hearing Requested 11/12/93) 1/12/94 AW 1/13/94 EA

ACCET-Accredited Avocational Schools

OPEID	School Name	Avocational Program Actions*	Other EA/LT Actions
03070000	Bnos Research Institute for Training and Education Brooklyn, New York		
03080400	Western Institute for Traditional Studies Los Angeles, California		
01201000	Derech Ayson Rabbinical Seminary Far Rockaway, New York		
03074000	Institute for Judaic and Talmudic Development Brooklyn, New York		
02352300	Jesode Hatorah Brooklyn, New York		12/3/93 EA 12/30/93 TF
01199300	Long Island Seminary of Jewish Studies for Women Far Rockaway, New York	1/13/94 DL 1/13/94 EA	
00481000	Northeast Center for Judaic Studies Brooklyn, New York		
01199500	Sara Schenirer Seminary Brooklyn, New York	1/13/94 DL 1/13/94 EA	
02556700	Seminar L'Moros Bais Yaakov Brooklyn, New York		
03070100	Traditional Jewish Studies Center Brooklyn, New York		

ACCET-Accredited Avocational Schools

OPEID	School Name	Avocational Program Actions*	Other EA/LT Actions
02543600	United Ger Institution Brooklyn, New York		
02303900	United Talmudic Academy of Monsey Monsey, New York		11/16/93 EA 12/15/93 TF (Failed to request hearing) Terminated 1/5/94

* All institutions on this list received letters dated 10/18/93 from the Department notifying them that their eligibility to participate in the HEA programs was in question due to avocational programs/accreditation. The schools also received letters dated 10/18/93 informing them they were being transferred to the reimbursement system of payment pending a determination of their eligibility.

Codes

AW - Accreditation was withdrawn by ACCET.

ED sent a letter to the institution on the date cited above as follows.

DL (Decision Letter) - Informed the institution that it is not eligible for HEA participation due to its avocational programs/accreditation.

EA - Imposed an emergency action against the institution.

TF - Stated its intent to terminate and fine the institution.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 69

23 YESHIVA OR YESHIVA-AFFILIATED SCHOOLS INVESTIGATED BY GAO

Academy for Creative Learning
Academy for Jewish Education
Academy for Social Action
Bais Fruma
Beth Jacob Hebrew Teachers College
Beth Medrash Eeyun Hatalmud
Beth Rochel Seminary
Bnai Arugath Habosem
Bnos Jerusalem Seminary
Bramson ORT Technical Institute
Derech yson Rabbinical Seminary
Institute for Judaic and Talmudic Development
Jesode Hatorah
Molloy College
Northeast Center for Judaic Studies
Sara Schenirer Teachers Seminary
Rockland County Community College New Square Branch
Toldos Yakov Yosef
Touro College
Traditional Jewish Studies Center
United GER Institutions
United Talmudic Academy (UTA) of Monsey
Western Institute for Traditional Studies

* * *

Four Schools with Branches in Israel

Northeast Center for Judaic Studies
United GER Institutions
Beth Medrash Eeyun Hatalmud
Belzer Yeshiva

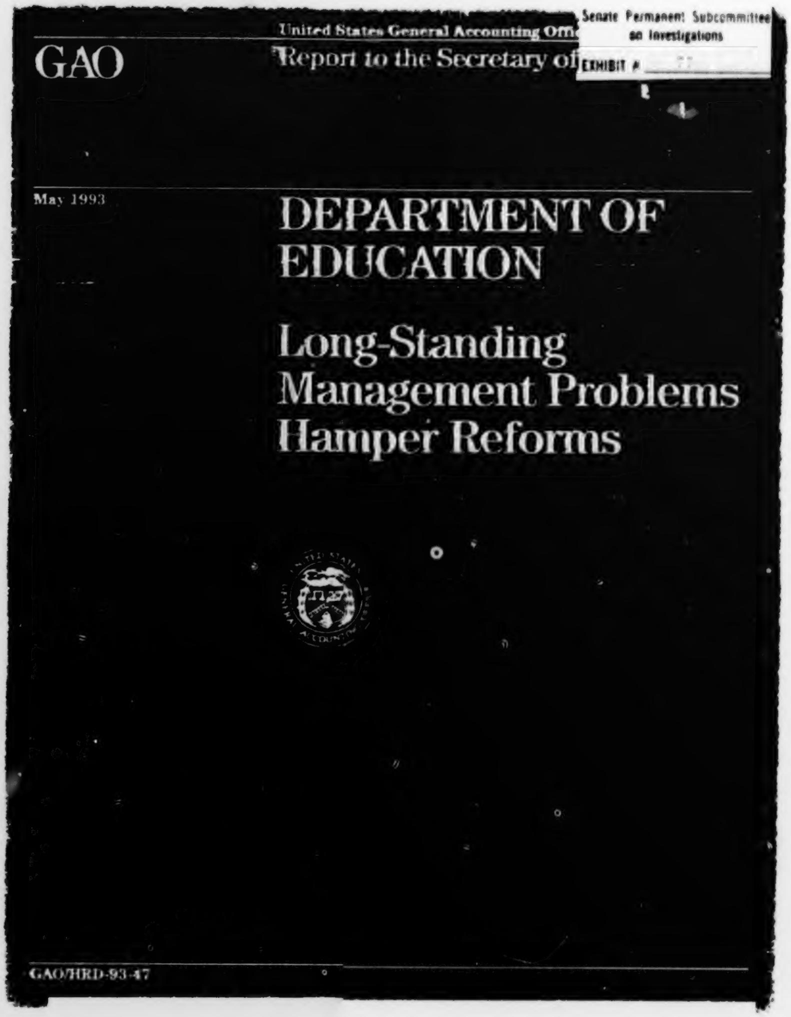
(Also, Sara Schenirer had a branch in Israel, as did Beth Rochel.)

* * *

Two Schools with Forged Documents Submitted to Department of Education

United GER Institutions
Beth Medrash Eeyun Hatalmud

* * *



Senate Permanent Subcommittee
on Investigations

EXHIBIT #

United States General Accounting Offi

GAO

Report to the Secretary of

May 1993

DEPARTMENT OF EDUCATION

Long-Standing Management Problems Hamper Reforms

GAO/HRD-93-47

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GAO

United States
General Accounting Office
Washington, D.C. 20548

Human Resources Division

B-241690

May 28, 1993

The Honorable Richard W. Riley
The Secretary of Education

Dear Mr. Secretary:

This report on the U.S. Department of Education (ED) is one in a series of GAO management reviews of federal departments and agencies. Our purpose in doing these reviews is to assess the management of each department or agency and identify actions that can be taken to improve organizational performance.

To obtain information for this report, we conducted 151 in-depth interviews, primarily with ED's senior officials, and reviewed relevant reports and documentation. Among these were in-house studies; task force reports; departmental personnel statistics; and Office of Personnel Management (OPM), GAO, ED Inspector General, Office of Management and Budget (OMB), and Federal Managers' Financial Integrity Act reports. Our review was conducted between December 1990 and September 1992 in accordance with generally accepted government auditing standards. (See app. I.)

In this report, we include information covered in our briefings with then Secretary of Education Lamar Alexander in July 1991 and his staff in November 1991 and our letter of August 1991[1] identifying problems in ED's planning processes and recommending implementation of a strategic management process. We also include findings from our study of ED's information resources management[2] and our reports on the high-risk area of the Guaranteed Student Loan Program.[3]

As you know, American education is at a crossroads. Student achievement in mathematics and science lags behind that of students in other industrialized nations, some 1,900 students drop out of school each day, and large numbers of students graduate from school lacking the skills sought by employers. The growing belief that these educational problems contribute to America's declining economic competitiveness has spurred many federal, state, and local officials and the business community to agree that national goals for education are needed. You are well acquainted with these policy issues.

---

[1] GAO Management Letter on the Need for a Strategic Planning Process to the Secretary of Education (Aug. 20, 1991).

[2] Department of Education: Management Commitment Needed to Improve Information Resources Management (GAO/IMTEC-92-17, Apr. 20, 1992).

[3] High-Risk Series: Guaranteed Student Loans (GAO/HR-93-2, Dec. 1992) and Financial Audit: Guaranteed Student Loan Program's Internal Controls and Structure Need Improvement (GAO/AFMD-93-20, Mar. 16, 1993).

You may be less aware of the Department's impaired organizational capacity to manage; that is, fulfill its mission and carry out its role in the national education agenda. In our recent transition report,[4] we outlined the scope of departmental management problems and the need to strengthen departmental management. Here we provide the detailed findings and make recommendations.

Results in Brief

The Department charged with managing the federal investment in education and leading the long-term effort to improve education itself lacks a clear management vision of how to best marshal its resources to effectively achieve its mission. Past Education Secretaries have not built an organization that could implement major policy initiatives. Moreover, the Department's history is replete with long-standing management problems that periodically erupted, became the focus of congressional and media attention, and subsequently diverted attention from the policy agendas. One example of this is the financial management of the Federal Family Education Loan Program (formerly the Guaranteed Student Loan Program).

To reverse this trend and effect long-term change in the way the Department is managed, the Secretary must give priority attention to changing both ED's culture and its management systems. Past Department leaders have focused on short-term solutions and made limited use of career employees in management problem-solving. Thus, ED's current organizational culture leaves it poorly positioned to make long-range changes. Secretary Alexander recognized the need to improve the way ED is managed and took initial steps to enhance departmental leadership, transform agency culture, and improve operations. However, GAO is concerned that this momentum, already dissipating, not be lost.

The National Education Goals (see app. II) constitute a long-term approach to closing the nation's skills and knowledge gaps. But they have not provided a vision of what the Department itself needs to do to achieve its mission. With the exception of the objectives set forth to remedy problems in student financial assistance, the previous Secretary did not establish a management framework with goals and objectives to be accomplished if ED was to support its agenda. Moreover, this general lack of management direction was exacerbated by ED's long-standing practice of filling key technical and policy-making positions with managers who, lacking requisite technical qualifications, were ill-equipped to carry out their managerial responsibilities.

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[4] Transition Series: Education Issues (GAO/OCG-93-18TR, Dec. 1992).

Further, ED's management structure and systems have inadequately supported its major initiatives, such as student aid or special education programs. The Department has no systematic processes for planning, organizing, or monitoring for results and quality improvement. Lacking both clear management goals and a Secretarial focus on management, ED cannot effectively align its activities to support major initiatives, carry out its programs, or correct identified problems. In our November 1988 transition report,[5] we recommended that the Secretary establish a Secretarial-level strategic management process to address these deficiencies. This has not been done.

ED's major management systems need attention. To give the Secretary the tools for managing the Department, information and financial management systems must be repaired. Managers lack the information and resources to oversee operations; give technical assistance; and ensure financial interests against fraud, waste, and mismanagement. To lead and sustain these efforts, ED also needs a skilled work force. But the Department does not adequately recruit, train, or manage its human resources to ensure that workers can accomplish its mission and implement Secretarial initiatives.

Background

Created in 1979,[6] ED is one of the youngest and smallest Cabinet-level departments. Its 5,000 employees fulfill a diverse mission: (1) to provide financial aid for education and monitor its use, (2) to fund and pursue education-related research and information dissemination, (3) to ensure equal access to education and enforce federal statutes prohibiting discrimination in federally funded programs and activities, and (4) to provide national leadership in identifying and focusing attention on major educational issues and problems. (See app. III for a description of ED offices and funding.) As ED's fiscal year 1992 appropriation of $28.8 billion indicates, the federal role in financing U.S. education is small. The Department directly funds 5.6 percent of elementary and secondary and

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[5] Transition Series: Education Issues (GAO/OCG-89-18TR, Nov. 1988).

[6] Largely drawn from elements of the Department of Health, Education, and Welfare. ED became a functioning department in May 1980.

12.3 percent of postsecondary expenditures.[7] Historically, however, federal leadership and policy leverage have been significant, particularly in securing equal access to educational opportunities for all Americans.

In addition to mission-related activities, ED Secretaries have used their position to promote such initiatives as effective schools, drug-free schools, and school choice. Historically, these efforts were not connected to any national education agenda that could give direction to federal, state, and local education activities. The situation changed in 1990, when the nation's governors, in conjunction with the White House, developed the six National Education Goals. This was followed in 1991 by the Bush administration's long-term strategy, "America 2000," for achieving the goals.[8]

Over the past 12 years, the Department has found fulfilling its mission increasingly difficult. While its staff has steadily decreased, its work load has grown (see fig. 1). ED was hit harder by the reductions-in-force of the 1980s than any other Cabinet department. By fiscal year 1991, ED's use of full-time-equivalent (FTE) employees had declined 33 percent from its fiscal year 1981 level. Yet throughout this period, the Congress gave the Department responsibility for 70 new federal programs. In addition, the number of grants and contracts awarded by ED grew and civil rights complaints filed with it reached the highest levels in the Department's history (see app. IV).

Exacerbating the work load problems was ED's culture[9] and negative self-image. Early leadership did not enhance the self-image: the first Secretary of Education had only a few months in which to try to organize the Department before a new administration took office. The next Secretary made dismantling the Department a formal goal and did not request a budget for it in fiscal years 1983 and 1984. Subsequent Secretaries focused on external policy agendas, devoting little attention to departmental management.

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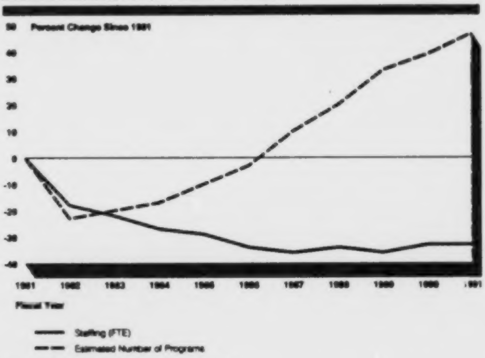
[7] This fiscal year 1992 estimate by the Congressional Research Service does not include the portion of federal support provided indirectly to these institutions through student aid programs and various tax expenditures. Neither does it reflect the support that postsecondary institutions receive from other federal agencies, such as research and development grants.

[8] ED, America 2000: An Education Strategy, Sourcebook, April 18, 1991.

[9] An organization's culture consists of the basic underlying assumptions, beliefs, values, attitudes, and expectations shared by its members.

Figure 1: ED Staffing Declined While Programs Increased



Source: Congressional Research Service and ED.

Note: Supporting data for this and other figures in this report are presented in appendix VI.

ED's strategic and operational management problems have been documented at length by GAO, OMB, ED's Inspector General, congressional committees, and many internal reports and task forces. However, serious problems have persisted or recurred. To help ED manage its increasing work load and tackle chronic management problems, we suggested in our 1988 transition report that the Secretary establish a strategic management process. This would have enabled the Secretary to set major goals and priorities, monitor progress against these goals, and provide feedback to senior agency managers. It also would have allowed the Secretary to systematically correct and improve ED's management systems.

Principal Findings

Management Vision Needed

Without a Secretarial-level process for setting clear goals and priorities and dealing with issues requiring long-term focus, ED's ability to implement solutions to problems and engage in effective Department-wide planning and management is impeded. We observed this in our 1988 report and did so again in an August 20, 1991, letter to the Secretary. However, the Department still has not developed and institutionalized such a process.

To be effective, strategic management must be linked to the budget process; for maximum long-range results, strategic plans must drive budget requests. Absent a strategic plan, ED may be unable to assess the resource levels needed to respond to future changes in program direction.

Traditionally, the Department has operated as a conglomerate of largely independent entities (see app. III). Calling priorities unclear, managers we interviewed said they were unaware of what Secretaries prior to Secretary Alexander had envisioned for the Department as a whole. In reviewing past management practices, we were told by many top officials—including those responsible for management—that they themselves were "out of the loop." That is, they were not involved in priority-setting, decision-making, information flow, and resource allocation. While articulation of the America 2000 strategy provided a much-needed policy concept that defined the national education agenda, it did not offer a management vision for the Department as a whole. The only major management initiatives—a management-by-objectives process,[10] a program accountability initiative,[11] and a joint OMB/ED assessment of the student financial assistance programs[12] —were either required by or included OMB.

Without a top-level vision, managerial efforts tend to be focused on the needs of the individual units in the organization, not the Department as a whole. For example, because ED's information resources management planning takes place at the individual unit level, not Department-wide, critical decision-making information often is not shared. As a result, when planning problems were combined with ED's inaccurate and incomplete records, erroneous payments and loans were made to ineligible borrowers. Absent a top-level vision, information technology efforts tend to degenerate into loose collections of independent systems specific to a particular office.[13]

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[10] The first management-by-objectives plan was submitted to OMB in fiscal year 1990.

[11] Implemented in 1991, the initiative mandates that ED conduct a systematic and comprehensive examination of accountability systems for every program.

[12] Begun in December 1990 as a response to the student loan default problem, this study made recommendations to correct problems in managing the student financial assistance programs. These recommendations, made to the Secretary of Education and the Director of OMB, were announced on April 8, 1991.

Likewise, the financial management of ED's programs suffers from a lack of a unifying vision and clear priorities. In the past, some managers discounted fiscal integrity as a goal, believing that the Department existed largely to get money out to states and local grantees on time. As a result, ED focused too much on the execution of program funding activities and too little on program accountability. This focus has contributed to the mounting problems with student financial assistance and other financial management weaknesses.

Leadership Commitment to Management Lacking

In 1991, Secretary Alexander inherited a management infrastructure weakened by past political leadership that had not given priority to building and maintaining an organization that could implement major policy initiatives. Targeted for abolition in the early 1980s, ED had difficulties in attracting high-quality Assistant Secretaries.[14] ED since has suffered from management neglect. A major problem has been management's practice of placing unqualified managers in key technical and policy-making positions. The high turnover among managers also has been problematic. For example, in the 1-year period from February 1990 to February 1991 ED had three successive directors in the information technology area, two of whom said that they were unqualified for the position. Only in 1992 did ED hire a permanent director with a background in information technology. Further, ED's leadership has had a greater proportion of political appointees than other departments, contributing to heavy management turnover. Without consistent, knowledgeable leadership, information technology problems have languished unresolved.

Even when problems surfaced and ED's staff and senior officials proposed solutions, in-house technical expertise was often ignored and implementation of planned solutions was not tracked. This happened, for instance, when the Department decided to let a long-term contract to improve ED's financial information system. Although in 1989 ED staff wrote a request for proposal that reached the final stage of bid review, action on the project was stopped when a new Deputy Under Secretary for Management was appointed. After a 3-year delay, a new effort was begun in 1992.

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[13] Department of Education: Management Commitment Needed to Improve Information Resources Management (GAO/IMTEC-92-17, Apr. 20, 1992).

[14] See chapter 4, "Staffing Reagan's Titanic," in The Thirteenth Man by Terrel H. Bell (NY: The Free Press, 1988).

Leadership problems also have occurred in the student financial assistance area, which had three Deputy Assistant Secretaries in the 18-month period between January 1991 and July 1992. As of March 1993, the position was vacant. Lacking continuous, qualified leadership, ED has yet to successfully implement all of the fundamental managerial reforms recommended by the joint OMB/ED task force[15] in 1991. One such reform would address student loan defaults—which totaled more than $14 billion as of September 30, 1991—through strong leadership in all senior positions, as well as better systems and controls. In particular, the OMB/ED task force recommended that the Deputy Assistant Secretary for Student Financial Assistance be "an extremely well-qualified person... available for the long-haul." The first appointee had no background in loans or student financial assistance and abruptly resigned after 7 months. The next appointee, while qualified, left ED after 5 months.

Improving Basic Management Systems Imperative

In developing and implementing critical policies, goals, priorities, and programs, ED does not have in place the structures and systems it needs to support managerial decision-making and accountability. ED also lacks the necessary information, tracking capability, and financial controls.

In gauging how successfully it is enhancing education oversight,[16] ED lacks or has not used existing key information. For instance, it cannot say whether and to what degree persons with disabilities receive federally funded rehabilitation services. Until 1992, ED did not use existing information to identify students who default on loans and then receive new ones. In ED's Chapter 1 Program, the $6.7 billion federal program supporting the educationally disadvantaged, ED officials have reported that states do not provide timely information needed to effectively monitor the program, plan for future expenditures, or justify annual budget requests.

Similarly, because its financial management system does not provide adequate financial controls and cannot produce accurate and reliable information, ED cannot ensure that its programs are financially sound. As a result, its programs are subject to increased risk from fraud, waste, and mismanagement.[17] ED's protracted financial management problems have been discussed by its Inspector General and OMB as well as GAO. They involve such important matters as guaranteed student loan defaults—$2.7 billion[18] in fiscal year 1992—and millions of dollars that remain unspent yet unrecovered from the $1.5 billion in discretionary grants and $232 million in contracts that ED awards each year. For example, as of June 30, 1990, 250 expired discretionary grants that were 3 or more years old had unexpended funds totaling $11.2 million, according to ED's Inspector General.[19] These monies remain uncollected.

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[15] OMB/ED, Improving Guaranteed Student Loan Management: A Blueprint for Action, April 1991.

[16] For a detailed discussion of information resources management in ED, see Department of Education: Management Commitment Needed to Improve Information Resources Management (GAO/IMTEC-92-17, Apr. 20, 1992).

The Department has underway several efforts to improve financial management, but it still faces major challenges in developing a single, fully integrated financial management system and producing financial reports that are useful to decision-makers. Financial management improvements must be a continuous process requiring top management support and commitment. The Chief Financial Officers Act of 1990 (P.L. 101-576) gives ED a framework for improving its overall financial management.[20]

Human Resources Management Critical

Critical work force problems also have confronted ED as its responsibilities have grown and become more complex. Because of increasingly constrained staff capacity (see apps. IV and V), such aspects of ED's mission as program monitoring and oversight are inadequate. For example, the Department has relied heavily on an honor system in its financial management activities. It pays over $5 billion annually to lenders and guaranty agencies on the basis of unaudited summary billings. Moreover, the shortage of technically qualified staff has contributed to management problems in the financial and information areas. The lack of staff with accounting or financial backgrounds, for example, plays a major role in the persistence of serious problems in managing student financial assistance programs.

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[17] See, for example, Stafford Student Loans: Millions of Dollars in Loans Awarded to Ineligible Borrowers (GAO/IMTEC-91-7, Dec. 12, 1990) and Financial Audit: Guaranteed Student Loan Program's Internal Controls and Structure Need Improvement (GAO/AFMD-93-20, Mar. 16, 1993).

[18] This Department of Education figure is unaudited and may be as high as $2.9 billion.

[19] ED, Office of Inspector General, Expired Grants Allowed to Remain Open for Years, Audit Control No. 11-80780, Mar. 1991.

[20] See The Chief Financial Officers Act: A Mandate for Federal Financial Management Reform (GAO/AFMD-12.19.4, Sept. 1991).

Throughout the 1980s, ED's investment in training lagged far behind growth in training investment in the federal government generally. Likewise, ED's proportion of staff receiving training is less than the federal average.

Also, the amount of time and money individual ED offices spent on training has varied widely.[21] For example, in fiscal year 1992, the Office of Inspector General spent $379 per FTE employee on external training, while the Office of Bilingual Education and Minority Languages Affairs spent nothing on outside training. Similarly, employees in the Office of Inspector General used 37 hours per FTE employee in internal and external training, while Office of Postsecondary Education employees used only 9 hours of training per FTE employee. The Department-wide average was 18 hours per FTE employee. In addition to problems created by lack of training, many senior managers recounted difficulties related to recruiting staff and slow processing of ED's personnel actions. Although human resource issues have been identified in numerous studies, work force assessment has not been systematic. In December 1991, however, efforts were initiated to improve human resource management. (See app. V.)

Finally, ED's work force problems are exacerbated by the Department's demographics. Large percentages (between 40 and 50 percent in some job series) of employees are eligible to retire. Meanwhile, ED officials said, like other agencies, ED is having difficulty attracting and keeping younger, high-skilled workers, such as lawyers, in some regional offices. An ED report[22] notes that nearly half of the Career Intern Class of 1984 had left ED by 1989.

Strategic management of human resources could substantially aid the Department in meeting current and future policy and program requirements. By linking human resource planning[23] to a strategic management process (see fig. 2), ED could use such human resource activities as staffing, rewards, and training and development to support its goals and objectives. Under such an approach, key managers are actively involved in planning for the organization's future, including structuring the mix and organization of resources to accomplish goals and meet challenges posed by changing work force demographics.[34]

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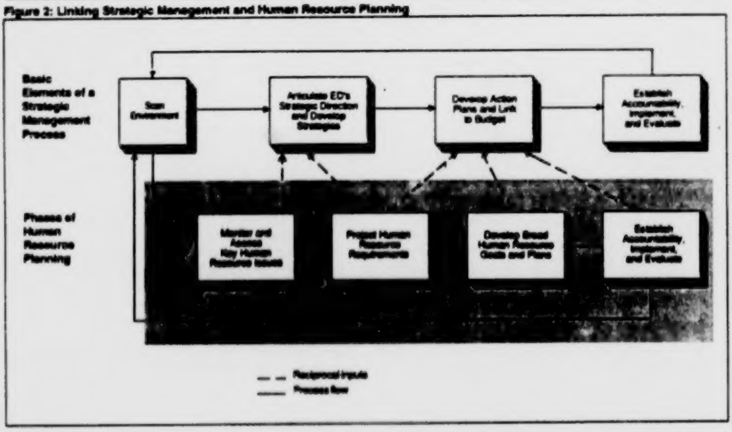
[21] The actual amount of training is higher because some training is not reported.

[22] ED, Horace Mann Learning Center, Strategic Training Plan for the Department of Education, FY 1992-FY 1996.

[23] Human resource planning is a framework for decision-making and management that addresses the consequences of an organization's strategic plans and dynamic environment on its employees. Such planning aims to ensure that the organization has enough employees available with the right skills when and where needed to respond to change and accomplish goals.

Figure 2: Linking Strategic Management and Human Resource Planning


Basic Elements of a Strategic Management Process
Scan Environment
Articulate ED's Strategic Direction and Develop Strategies
Develop Action Plans and Link to Budget
Establish Accountability, Implement, and Evaluate
Phases of Human Resource Planning
Monitor and Assess Key Human Resource Issues
Project Human Resource Requirements
Develop Broad Human Resource Goals and Plans
Establish Accountability, Implement, and Evaluate
Reciprocal inputs
Process flow

Agency Cultural Transformation Needed

The Department's major management problems remain unresolved, many ED managers believe, in part because of the agency culture it inherited from the Department of Health, Education, and Welfare, its parent agency until 1980. An ED task force observed that this culture is characterized by a focus on short-term solutions, highly centralized decision-making, and limited communication with and use of career employees by senior managers in management problem-solving. In the past, strategies that would have allowed the Department to move forward on management support issues were developed but not acted upon. This problem exists at all levels of the organization. For example, several proactive Assistant

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[34] See Management of VA: Improved Human Resource Planning Needed to Achieve Strategic Goals (GAO/HRD-93-10, Mar. 18, 1993) for a synthesis of generally accepted principles of human resource planning.

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Secretaries tried to implement a strategic planning process in 1989 but gave up when the Secretary declined to participate.

Furthermore, ED has a negative self-image. ED's managers spoke of the Department as a dumping ground for staff and equipment that other agencies did not want. Some offices referred to themselves as "step-children," "starved" for such basic resources as staff, computers, training funds, space, and equipment. In addition, the formal administration attempts in the 1980s to abolish the Department and recurring reductions-in-force, have fostered the negative self-image.

Despite these roadblocks, ED managers are receptive to change. In addition, ED's recent leadership has taken action to promote positive change in the agency's culture and management. Within months of his 1991 confirmation, Secretary Alexander articulated a policy vision for education and established a respected management team. At Department-wide staff meetings, the former Secretary reported to ED staff on agency activities and progress, and discussed the values and beliefs he would like to see perpetuated. Previous managerial efforts that were neglected by top management—such as a human resources task force report[25] —were resurrected and implementation of their findings begun. Similarly, in 1991 the former Secretary, Deputy Secretary, and other senior executives began looking directly to staff for answers to management problems, such as how to resolve financial management issues.

The former Secretary also encouraged more participatory management techniques,[26] such as those experts agree are useful in promoting positive organizational change. For instance, the Office of Vocational and Adult Education developed a quality culture initiative. Similarly, a Total Quality Management model developed in one unit of the Office of Postsecondary Education was being expanded to the whole office. In September 1992, ED took initial steps to begin Department-wide quality efforts.

While these steps and others constitute a promising departure from the management neglect of the past, they are new and not an established part of the organizational structure. Thus, with the change in administration the momentum could be lost. To institutionalize reform of ED's management infrastructure, ED must take several actions to ensure its ability to support implementation of the national education agenda.

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[25] ED, Developing the Education Program Workforce, Education Program Curriculum Committee, Mary Jean LeTendre, Chairperson, Apr. 16, 1990.

[26] See Organizational Culture: Techniques Companies Use to Perpetuate or Change Beliefs and Values (GAO/NSIAD-92-105, Feb. 27, 1992).

Recommendations

Building on the initial steps taken by the Department over the last 2 years to improve operations, we recommend that the Secretary of Education do the following:

- Articulate a strategic management vision for ED that demonstrates how its management infrastructure will be developed to support its mission and such Secretarial policy priorities as the National Education Goals.
- Adopt a strategic management process in the Office of the Secretary for setting clear goals and priorities, measuring progress towards those goals, and ensuring accountability for attaining them. Once implemented in the Office of the Secretary, take the necessary actions to implement this process throughout the Department. Such a process should also provide a vehicle for ensuring both Secretarial-level and employee involvement for solving major management problems and for planning and managing long-term change.
- Enhance management leadership throughout ED and strengthen agency culture by (1) implementing a Department-wide strategic management process, (2) identifying good management practices within ED and supporting their adoption where appropriate in other parts of the Department, (3) rewarding managers for good management and leadership, and (4) filling technical and policy-making leadership positions with people with appropriate skills.
- Create for information, financial, and human resources management, strategic visions and strategic plans that are integrated with the Department's overall strategic management process.

Agency Comments

The Department of Education provided written comments on a draft of this report. Their comments are summarized below and reproduced in appendix VII.

The Secretary generally agreed with our findings, noting that the report will serve as a useful road map as the Department pursues efforts to improve its culture and management. In addition, although noting that some changes to build up ED's management capacity will require several years, the Department has begun to act on our recommendations. Specifically, the Department is near completion of a strategic plan and Total Quality Management guidelines that will serve as an initial framework for improving its performance in the critical areas addressed in our report.

As you know, the head of a federal agency is required by 31 U.S.C. 720 to submit a written statement of actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report. A written statement must also be submitted to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are providing copies of this report to interested members of the Congress, executive branch agencies, and the public. We also will make copies available to others upon request. Our work was performed under the direction of Gregory J. McDonald, Director of Human Services Policy and Management Issues, who can be reached at (202) 512-7225. Other major contributors are listed in appendix VIII.

Sincerely yours,

Lawrence H. Thompson

Lawrence H. Thompson
Assistant Comptroller General

Contents

Letter 1

Appendix I Objectives, Scope, and Methodology 20

Appendix II National Education Goals 22

Appendix III Department of Education: Organization and Programs 23
- Organization and Functions 23

Appendix IV Work Load Increased While Resources Declined 29
- ED Resources Decreased in the 1980s 29
- ED Work Load and Responsibilities Increased 30

Appendix V Human Resource Issues: Training, Recruiting, and Work Force Assessments 33
- Work Force Composition Diverse 33
- Employee Training Neglected 33
- Recruitment Problems Widespread, Timeliness an Issue 35
- Issues Identified, but Work Force Assessment Unsystematic 36
- Efforts Underway to Improve Human Resource Management 37

Appendix VI Tables Supporting Figures in Text 38

Appendix VII Comments From the Department of Education 41

Appendix VIII Major Contributors to This Report 42

Related GAO Products 44
Education General Management Review Report 44
Other Related Reports 44

Tables
Table III.1: Department of Education Offices: Function, Funding, and Staffing 25
Table VI.1: Data for Figure 1 38
Table VI.2: Data for Figure III.2 38
Table VI.3: Data for Figure IV.1 39
Table VI.4: Data for Figure IV.2 39
Table VI.5: Data for Figure IV.3 40
Table VI.6: Data for Figure IV.4 40
Table VI.7: Data for Figure V.1 40
Table VI.8: Data for Figure V.2 40

Figures
Figure 1: ED Staffing Declined While Programs Increased 5
Figure 2: Linking Strategic Management and Human Resource Planning 11
Figure III.1: Department of Education Organization Chart 24
Figure III.2: Most Spending Managed by Four Offices 28
Figure IV.1: ED's Reduction of Staff Greater Than Any Other Cabinet Department 29
Figure IV.2: Congress Usually Appropriated More Than Presidents Requested for Programs but Not for Salaries and Expenses 30
Figure IV.3: Number of Discretionary and Formula Grants Increased Over Time 31

Figure IV.4: Complaints Filed With the Office for Civil Rights Rose to Highest Level in ED's History While Staff Dropped 23 Percent 32
Figure V.1: ED Investment in Training Lagged Behind Federal Government 34
Figure V.2: Percent of Employees Receiving Training Less Than Federal Average 35

Abbreviations

GAO	General Accounting Office
ED	Department of Education
FTE	full-time-equivalent
OMB	Office of Management and Budget
OPM	Office of Personnel Management

Objectives, Scope, and Methodology

The purpose of this general management review is to identify the key management issues facing the Department of Education and assess the extent to which its management systems and processes support its mission. General management reviews differ in focus and consequent methodology from our customary work. Typically, our audits and evaluations are done at the request of the Congress and focus on program issues. In contrast, we generally initiate management reviews and through them address such broad, agency-wide issues as strategic planning and human resource management. Such a review depends on the cooperation and support of the head of the agency. Getting action on recommendations that often call for fundamental changes in how an agency operates requires a strong commitment from the top.

Grounded in the experience of successful management consultants,[1] the methodology for a general management review assumes that the key information about the way the agency functions—its strengths, weaknesses, problems, solutions, barriers to change, and culture—resides in its staff. Some reviews have used questionnaires extensively to tap staff expertise. Another efficient way is through interviews with agency officials. For this study, we corroborated and augmented information from interviews with information from other studies done by GAO, departmental inspectors general, and others and pertinent departmental and other documentation.

We interviewed senior officials at ED and examined relevant documents and reports (such as in-house studies and task force reports), personnel statistics from the Department and the Office of Personnel Management, and GAO, ED's Office of Inspector General, OMB, and Federal Managers' Financial Integrity Act reports. Our 151 semistructured, in-depth interviews, primarily with ED's managers, senior executives, and presidential appointees, included questions on various management topics. Among these were: strategic management, performance monitoring, communication, information resources, human resources, and financial management. We also asked about the interrelations between the program offices and central support offices, activities and current status of cross-cutting task forces, innovative programs or activities, and the strengths and areas needing improvement within the Department. This report includes information covered in our briefings with the then

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[1] For example, see Gordon and Ronald Lippitt, The Consulting Process in Action (LaJolla, CA: University Associates, Inc., 1978); Rosabeth Moss Kanter, The Change Masters (NY: Simon and Schuster, Inc., 1983); Robert R. Blake and Jane Srygley Mouton, Consultation, 2nd ed. (Reading, MA: Addison-Wesley Publishing Co., 1983); and Edgar H. Schein, Process Consultation: Its Role in Organization Development (Reading, MA: Addison-Wesley Publishing Co., 1983).

Secretary of Education in July 1991 and his staff in November 1991 and our letter of August 1991 identifying problems in ED's planning processes and recommending implementation of a strategic management process.

Our work was conducted at ED's headquarters in Washington, D.C., and ED's Dallas and Chicago regional offices between December 1990 and November 1991 in accordance with generally accepted government auditing standards. We updated selected data through September 1992.

Appendix II

National Education Goals

In 1990, the nation's governors, in conjunction with the White House, developed six National Education Goals to be met by the year 2000:[1]

1. All children in America will start school ready to learn.

2. The high school graduation rate will increase to at least 90 percent.

3. American students will leave grades four, eight, and twelve having demonstrated competency in challenging subject matter, including English, mathematics, science, history, and geography; and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our modern economy.

4. U.S. students will be first in the world in science and mathematics achievement.

5. Every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

6. Every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning.

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[1] ED, America 2000: An Education Strategy, Sourcebook, April 18, 1991.

Appendix III

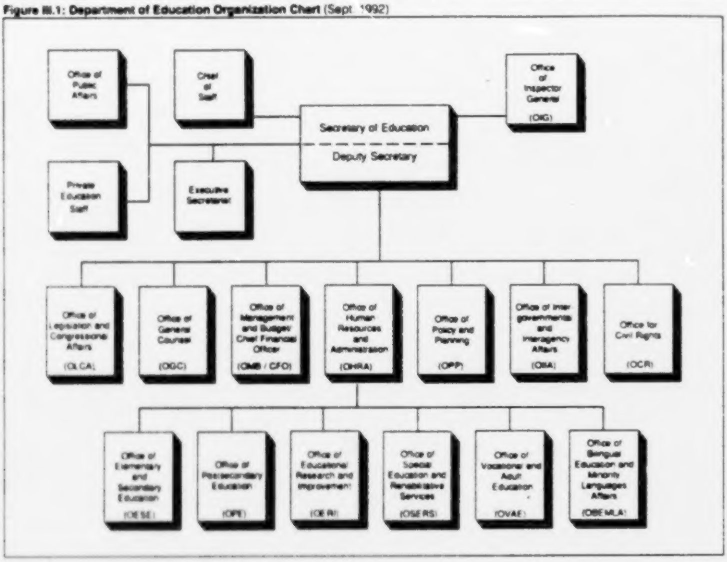
Department of Education: Organization and Programs

The U.S. Department of Education, created in 1979, is the primary Cabinet-level federal department that assists the President in pursing his educational agenda for the nation and in implementing federal education laws enacted by the Congress.

Organization and Functions

ED has some 5,000 employees. About half work in six program offices. The others work in several central management offices (including the Offices of the Secretary and Deputy Secretary), the Office of Inspector General, and the Office for Civil Rights (see fig. III.1). Each office has a role in carrying out ED's diverse functions (see table III.1).

Figure III.1: Department of Education Organization Chart (Sept. 1992)


Office of Public Affairs
Chief of Staff
Office of Inspector General (OIG)
Secretary of Education
Deputy Secretary
Private Education Staff
Executive Secretariat
Office of Legislation and Congressional Affairs (OLCA)
Office of General Counsel (OGC)
Office of Management and Budget/ Chief Financial Officer (OMB / CFO)
Office of Human Resources and Administration (OHRA)
Office of Policy and Planning (OPP)
Office of Intergovernmental and Interagency Affairs (OIIA)
Office for Civil Rights (OCR)
Office of Elementary and Secondary Education (OESE)
Office of Postsecondary Education (OPE)
Office of Educational Research and Improvement (OERI)
Office of Special Education and Rehabilitative Services (OSERS)
Office of Vocational and Adult Education (OVAE)
Office of Bilingual Education and Minority Languages Affairs (OBEMLA)

Source: ED

Table III.1: Department of Education Offices: Function, Funding, and Staffing (Fiscal Year 1992)

Dollars in millions

Office	Function	Appropriations	Programs[a]	Employees
Postsecondary Education	Administers funding for postsecondary education programs, including student financial assistance, institutional development, student services, housing and academic facilities, cooperative education, international education, and graduate education.	$12,109	54	1,222
Elementary and Secondary Education	Provides financial assistance to states, local education agencies, and Indian-controlled schools to improve preschool, elementary, and secondary school student achievement.	9,189	58	287
Special Education and Rehabilitative Services	Supports programs that assist in educating children with special needs, provides rehabilitative services to youth and adults with disabilities, and supports research to improve the lives of individuals with disabilities.	5,054	59	425
Vocational and Adult Education	Administers programs that help states assist adults in attaining the basic skills needed to obtain a high school diploma or its equivalent and find employment.	1,443	25	113
Educational Research and Improvement	Collects, analyzes, and disseminates information on the progress and condition of American education; conducts and funds education research; and administers programs to promote reform and innovation, improve practice, and enhance libraries and library education.	420	35	496
Bilingual Education and Minority Languages Affairs	Administers bilingual education programs to students with limited English proficiency in elementary and secondary schools and conducts research and evaluation in bilingual education.	225	18	48
Civil Rights	Ensures equal access in federally funded education programs by investigating complaints, conducting compliance reviews, and providing technical assistance to help institutions achieve voluntary compliance with civil rights laws.	54	[b]	902
The Secretary	Provides for the overall direction, supervision, and coordination of all Department activities and advises the President on all federal policies, programs, and activities related to U.S. education.	[c]	[b]	105
Deputy Secretary	Assists the Secretary in the discharge of Secretarial duties and responsibilities. The Deputy Secretary serves as Acting Secretary in the absence of the Secretary.	[c]	[b]	24

(continued)

Dollars in millions

Office	Function	Appropriations	Programs[a]	Employees
Human Resources and Administration	Oversees departmental administrative matters, and directs, coordinates, and recommends policies for activities that include: evaluating and assessing the departmental programs and internal management practices, managing the Department's discretionary grant-making, procurement, and automated data processing activities; providing personnel and training services to departmental offices; providing resource management services, including facilities management, administrative support, and audiovisual communications; and developing and managing the departmental Affirmative Action Program.	[c]	[b]	549
Inspector General	Conducts and supervises audits, investigations, inspections, and other reviews of ED's programs and operations; provides leadership, coordination, and policy recommendations to promote economy, efficiency, and effectiveness; prevents fraud and abuse in ED programs and operations; and reviews proposed and existing legislation and regulations governing ED's programs.	26	[b]	365
General Counsel	Provides legal services to the Department and its officials that include: interpreting all federal laws affecting ED's operations; representing ED in administrative and judicial litigation; and drafting and reviewing legislation and regulations for ED; and advises the Secretary and other officials on policy initiatives and legal developments.	[c]	[b]	112
Policy and Planning	Oversees all matters related to Department program plans and directs, coordinates, and recommends policy for activities that are designed to: coordinate planning and policy discussions with the Office of Management and Budget and Executive Office of the President; direct analytical studies on the economic, social, and institutional impact of existing and proposed education policies and provide advice on the formulation of departmental policies, legislative proposal, and program operations; and develop, coordinate, and monitor a planning system for supporting the Department's long-term program strategies and financial plans.	[c]	[b]	65
Intergovernmental and Interagency Affairs	Serves as liaison between ED and the public and provides overall leadership for the Department in establishing communications with a wide variety of intergovernmental, interagency, international, and public advocacy groups.	[c]	[b]	125

(continued)

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Dollars in millions

Office	Function	Appropriations	Programs[a]	Employees
Management and Budget/Chief Financial Officer	Oversees all matters related to program policy, budget, and legislative development; management of the Department's program budget and administrative resources; financial management, financial control, and accounting; and program analysis.	[c]	[b]	250
Legislation and Congressional Affairs	Coordinates and directs departmental interaction with the Congress by working closely with the Secretary and departmental offices to develop and present ED's legislative programs and coordinating congressional testimony by Department officials. This office also responds to congressional inquiries about Department programs and policies and notifies members of the Congress about award of grants and contracts.	[c]	[b]	29

[a] As of fiscal year 1991.

[b] These offices do not administer programs.

[c] These offices do not receive a separate appropriation but share in the appropriation received for program administration of $292 million.

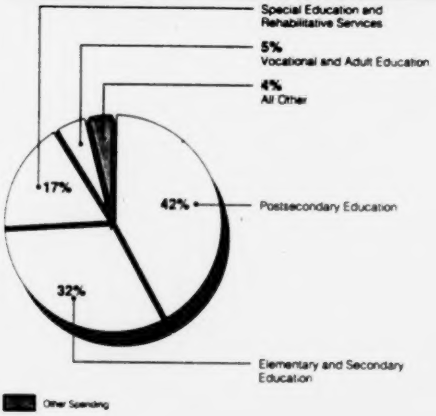
Note: This table does not include the appropriation of $90 million for the Educational Excellence Initiative and the $292 million for program administration.

Source: ED.

Program offices range in size from the Office of Postsecondary Education (over 1,200 employees) to the Office of Bilingual Education and Minority Languages Affairs (48). Most of ED's work force, 70 percent, is located in headquarters, while 30 percent work in the 10 regional offices. Top-level regional managers report directly to their counterparts in the Washington headquarters.

The Department funded more than 200 programs out of fiscal year 1992 appropriations of $28.8 billion. Four offices were responsible for dispersing almost all the appropriations: the Offices of Postsecondary Education ($12.1 billion or 42 percen.), Elementary and Secondary Education ($9.2 billion or 32 percent), Special Education and Rehabilitative Services ($5.1 billion or 17 percent), and Vocational and Adult Education ($1.4 billion or 5 percent) (see fig. III.2).

Figure III.2: Most Spending Managed by Four Offices (Fiscal Year 1992)



Source: ED

Of ED's fiscal year 1992 appropriations, allocations for salaries and expenses[1] account for about 1 percent and four program areas—Compensatory Education, Pell Grants, Federal Family Education Loans, and Special Education—about 70 percent.

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[1] Includes salaries and benefits of ED employees, contracts for student aid data collection and processing and other departmental services, costs associated with accounting, financial management, and payroll, and other administrative expenses such as rent, utilities, travel, and mail.

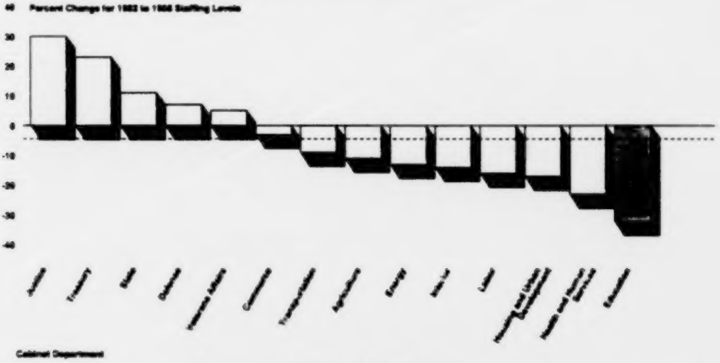
Work Load Increased While Resources Declined

Through the 1980s, ED's resources decreased while its work load grew. Through reductions-in-force and hiring freezes, ED experienced the greatest drop in staffing of any Cabinet department, 32 percent from 1982 to 1988. At about the same time, the numbers of programs funded, grants, contracts, and loan activities grew.

ED Resources Decreased in the 1980s

As one would expect, the general decline in ED's staffing numbers (shown in fig. IV.1) was accompanied by a drop in salaries and expenses. By fiscal year 1991, salaries and expenses were 22 percent less than the 1981 levels when adjusted for inflation.

Figure IV.1: ED's Reduction of Staff Greater Than Any Other Cabinet Department



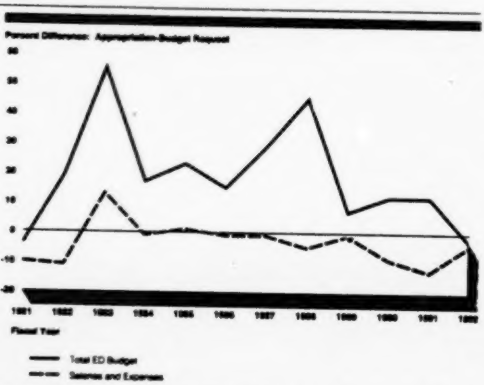
- - - - - Average Change in Federal Employment

Note: Between 1982 and 1988, federal employment overall decreased an average of 4.4 percent.

Source: Office of Personnel Management (OPM).

At the same time, departmental appropriations increased in current dollars. ED's total appropriations increased from $14.8 billion to $28.8 billion, about 95 percent, between fiscal years 1981 and 1992. Throughout the 1980s, Presidents' budget requests tended to be less than what the Congress had appropriated the previous year. Although the Congress usually appropriated more than Presidents requested for ED programs between fiscal years 1981 and 1992, it tended to appropriate less than requested for salaries and expenses (see fig. IV.2).

Figure IV.2: Congress Usually Appropriated More Than Presidents Requested for Programs but Not for Salaries and Expenses



Note: Because ED did not begin operation until May 1980, no budget was requested until 1981.

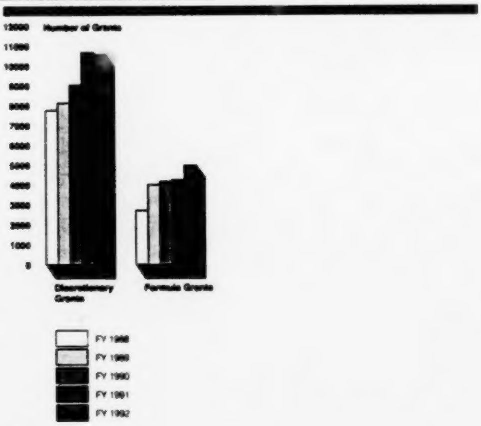
Source: Congressional Research Service and ED

ED Work Load and Responsibilities Increased

Even as ED's staffing and the amount appropriated for salaries and expenses declined when adjusted for inflation, its work load increased. The number of programs funded between 1981 and 1991 grew from an estimated 150 to about 220, as figure 1 on page 5 shows.

Grants, contracts, and loan activities also grew during the 1980s. The number of contracts ED awarded increased 103 percent between fiscal years 1986 and 1992. The number of discretionary grants rose 36 percent and formula grants rose 85 percent between fiscal years 1988 and 1992 (see fig. IV.3). The number of loan commitments in the Federal Family Education Loan Program (known as the Guaranteed Student Loan Program) increased 109 percent from 2.3 million in fiscal year 1980 to 4.8 million loans in fiscal year 1991.

Figure IV.3: Number of Discretionary and Formula Grants Increased Over Time

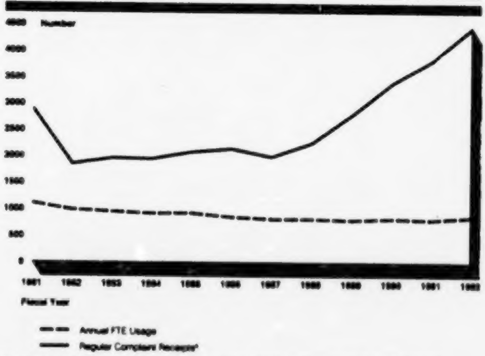


Source: ED

In the Office for Civil Rights, civil rights complaints increased dramatically over the last decade and now exceed any previous level in the

Department's history (see fig. IV.4). At the same time, the Office experienced a 23-percent drop in its use of employees—from 1,099 employees in fiscal year 1981 to 848 in 1992. Because complaints now require more labor-intensive investigation, the Office for Civil Rights has been unable to devote the amount of resources it would like for compliance review investigations and technical assistance. As a result, in fiscal year 1992 the Office was unable to devote more than 6 percent of its regional staff resources to compliance review investigations and 4 percent to technical assistance activities.

Figure IV.4: Complaints Filed With the Office for Civil Rights Rose to Highest Level in ED's History While Staff Dropped 23 Percent (Fiscal Years 1981-92)



[a]Excludes those refiled due to enactment of the Civil Rights Restoration Act of 1987 and those repetitively refiled by a single complainant.

Source: ED

Appendix V

Human Resource Issues: Training, Recruiting, and Work Force Assessments

Several of our major findings regarding leadership in the Department of Education are human resource issues. They include the lack of vision and commitment to management improvement on the part of its leaders. Also significant is the Department's high proportion of political appointees, which exacerbates the amount and frequency of turnover, particularly in technical and policy-making leadership positions. In addition, ED needs to address issues in training, recruiting, and work force assessments.

Work Force Composition Diverse

In September 1992, ED employed a diverse work force, in which women (61 percent) and minorities (46 percent) were well represented. Compared with other Cabinet-level departments,[1] ED employed a higher percentage of minorities in fiscal year 1990, had a higher percentage of women than all but one (Health and Human Services), and employed a higher percentage of persons with targeted disabilities.[2] But while ED had the highest percentage of blacks and women at GS 11-15 levels when compared to 22 of the largest federal agencies in fiscal year 1990, the proportion of blacks and women decreased at higher grade levels. For example, black women were 34 percent of employees at grades 9-12, 13 percent of employees at grades 13-15, and 2 percent of senior executives in fiscal year 1991. In contrast, white women were 25 percent of employees at grades 9-12, 28 percent of employees at grades 13-15, and 20 percent of senior executives. Similarly, black men constituted 11 percent at grades 9-12, 8 percent at grades 13-15, and 6 percent of the senior executives, while white men were 23 percent of grades 9-12, 45 percent of grades 13-15, and 63 percent of the senior executives.

ED officials are justifiably proud of the overall diversity of the Department's work force. However, the relatively low percentage of women and minorities at higher grade levels within ED suggest that it, like other agencies, may have retention and discrimination problems in the future in the absence of corrective action.

Employee Training Neglected

ED has been unsuccessful in developing and upgrading the skills of its current work force due to insufficient training resources. ED managers and several reports identified serious skill weaknesses in such areas as accounting, finance, analysis, writing, and management. But throughout the 1980s, ED lagged far behind the growth in training investment in the federal government as a whole (see fig. V.1).

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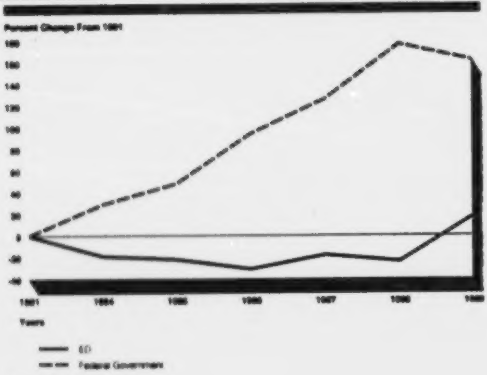
[1] The Departments of Defense and Veterans Affairs are not included in this comparison.

[2] "Targeted disabilities" refers to deafness, blindness, missing extremities, partial and complete paralyses, convulsive disorders, mental retardation, mental illness, and distortion of the limbs and spine.

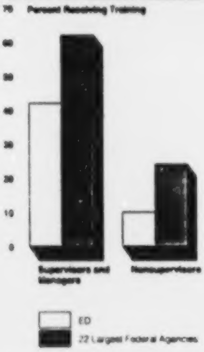
Figure V.1: ED Investment in Training Lagged Behind Federal Government



Source: ED

Likewise, the proportion of ED employees receiving training also was less than the federal average (see fig. V.2).

Figure V.2: Percent of Employees Receiving Training Less Than Federal Average (Fiscal Year 1990)



Source: OPM

Recruitment Problems Widespread, Timeliness an Issue

Many senior managers recounted difficulties related to recruiting employees and the slow process of ED personnel actions. They called the process frustrating because it reduces their competitiveness in hiring qualified applicants and leaves positions unfilled for longer than they wish.

An example of the many problems in recruiting qualified people in a timely fashion was given by one top manager, who said it took him over 9 weeks to get an eligible list of GS-6s. Another noted it took 15 months to fill a vacancy for a professional staff position. One reason is that ED's Personnel Management Service does not advertise positions in places where they are likely to attract more qualified applicants, managers asserted. For example, one position required the skills possessed by school district business managers. Rather than advertising in the professional journal to which the pool of qualified applicants subscribe, it was only posted in the standard federal information places. This attracted no applicants.

Nor was Personnel termed helpful in getting managers through the nuances of hiring. For example, one manager, unfamiliar with writing position descriptions, said she could not get the assistance she needed from Personnel. Still other managers said that often the people on Personnel's certification list were unqualified. Sometimes a position had to be advertised several times before a qualified candidate was selected.

Nonetheless, some managers perceived ED's Personnel Management Service as helpful in meeting their needs. Others suggested that Personnel staff were simply overworked and "move as fast as they can" or perceived the slowness of the process as attributable to OPM-mandated procedures.

Issues Identified, but Work Force Assessment Unsystematic

Various studies ED has conducted highlight some of the human resource issues confronting the Department. For example, the Department's 1990 task force report and its strategic training plan said ED is having difficulty attracting and keeping younger, high skilled workers.

A 1991, joint OMB/ED study on student financial assistance[3] identified serious weaknesses in human resource management, particularly the lack of employees with adequate financial, accounting, and analysis skills; training; and technical leadership. In our report on the Office of Special Education and Rehabilitative Services,[4] we identified major problems in filling vacancies, key positions filled on an acting basis, and limited training and development programs.

In addition, during our review ED managers cited concerns about a range of human resource management problems with recruiting, training, promotion, and a dwindling resource pool. These issues, they say, have not been systematically assessed or studied. While some work has been done in identifying specific needs of individual offices, and groups of employees, no Department-wide assessment of work force needs has been done.

---

[3] OMB/ED, Improving Guaranteed Student Loan Management: A Blueprint for Action, April 1991.

[4] Department of Education: Management of the Office of Special Education and Rehabilitative Services (GAO/HRD-90-21BR, Nov. 28, 1989).

Efforts Underway to Improve Human Resource Management

In December 1991, Department officials initiated efforts aimed at improving ED's human resource management. ED officials have begun projects to address training needs and involve their employees in improving work processes.

For example, officials developed and piloted plans for an employee skills clinic where ED employees can have their skills assessed and obtain information about internal and external training opportunities to upgrade their skills. In addition, a consultant will help ED develop a model recruitment program. ED administered a survey to all employees to solicit their opinions about job conditions, the work environment, recognition and contributions, and overall effectiveness of the Department. ED's Office of Vocational and Adult Education has implemented its "Star POC" (Principal Operating Component) initiative as part of its mission. This initiative is intended to improve morale, communication, and productivity and to encourage employee involvement, contribution, and teamwork.

Appendix VI

Tables Supporting Figures in Text

Table VI.1: Data for Figure 1

Fiscal year	Estimated number of programs	Percentage difference from 1981 levels	Staffing (FTE)	Percentage difference from 1981 levels
1981	150	•	6,883	•
1982	115	-23	5,660	-18
1983	120	-20	5,369	-22
1984	125	-17	5,026	-27
1985	135	-10	4,877	-29
1986	145	-3	4,527	-34
1987	165	10	4,413	-36
1988	180	20	4,516	-34
1989	200	33	4,425	-36
1990	209	39	4,596	-33
1991	220	47	4,630	-33

Table VI.2: Data for Figure III.2

Dollars in thousands

Office	Fiscal year 1992 appropriation	Percent of appropriation
Postsecondary Education	$ 12,109,136	42
Elementary and Secondary Education	9,188,917	32
Special Education and Rehabilitative Services	5,053,932	17
Vocational and Adult Education	1,442,608	5
All other	1,038,296	4

Table VI.3: Data for Figure IV.1

Department	Percent change in staff for 1982-88
Justice	30
Treasury	23
State	11
Defense	7
Veterans Affairs	5
Commerce	-3
Transportation	-9
Agriculture	-11
Energy	-13
Interior	-14
Labor	-16
Housing and Urban Development	-17
Health and Human Services	-23
Education	-32

Table VI.4: Data for Figure IV.2

Dollars in thousands

	Total ED budget			Salaries and expenses		
Fiscal year	Request	Appropriation	Percentage difference	Request	Appropriation	Percentage difference
1981	$15,485,332	$14,807,740	-4	$291,096	$262,513	-10
1982	12,353,966	14,752,370	19	308,719	275,462	-11
1983	9,950,508	15,422,286	55	256,505	290,663	13
1984	13,191,889	15,441,482	17	294,835	292,382	-1
1985	15,484,949	19,078,624	23	301,450	303,762	1
1986	15,545,314	17,939,011	15	277,342	273,512	-1
1987	15,218,094	19,687,697	29	296,755	294,070	-1
1988	14,049,789	20,314,175	45	316,000	299,118	-5
1989	21,164,824	22,738,556	7	314,701	310,718	-1
1990	21,910,000	24,622,959	12	342,124	312,517	-9
1991	24,618,311	27,503,298	12	406,700	353,076	-13
1992	29,620,044	28,832,889	-3	388,088	371,412	-4

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Table VI.5: Data for Figure IV.3

Type of grant	Number of grants, fiscal year 1988	1989	1990	1991	1992
Discretionary	7,757	8,120	9,018	10,883	10,569
Formula	2,889	3,988	4,149	4,238	4,972

Table VI.6: Data for Figure IV.4

Fiscal year	Annual FTE employee usage	Regular complaint receipts
1981	1,089	2,889
1982	976	1,840
1983	941	1,948
1984	907	1,934
1985	913	2,064
1986	843	2,128
1987	807	1,974
1988	808	2,236
1989	789	2,779
1990	815	3,384
1991	797	3,809
1992	848	4,432

Table VI.7: Data for Figure V.1

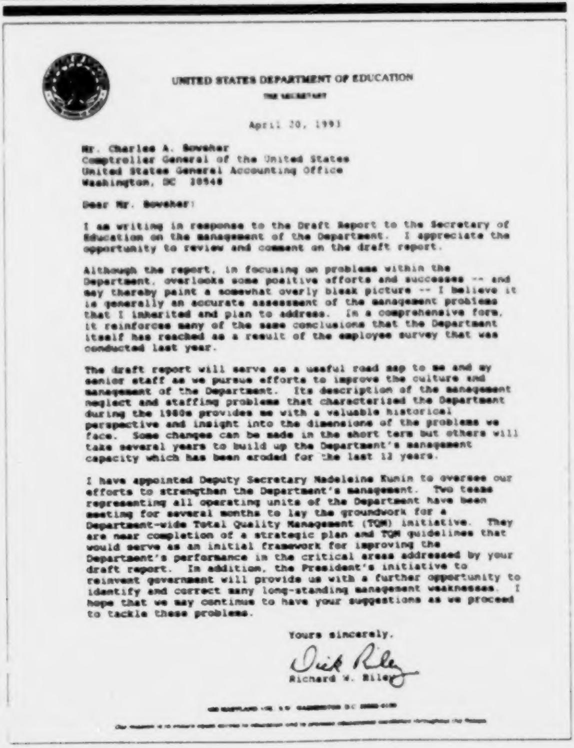
	ED		Federal government	
Fiscal year	Training expenditures	Percentage change from 1981	Training expenditures	Percentage change from 1981
1981	$1,089,425	•	$370,983,901	•
1984	885,469	−19	476,983,493	29
1985	849,631	−22	550,106,082	48
1986	752,582	−31	721,194,820	94
1987	892,446	−18	838,363,403	126
1988	824,818	−24	1,029,324,721	177
1989	1,288,864	18	972,066,229	162

Table VI.8: Data for Figure V.2

	Percent receiving training	
	ED	Average of 22 largest federal agencies
Supervisors and managers	42	62
Nonsupervisors	10	24

Appendix VII

Comments From the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

April 20, 1993

Mr. Charles A. Bowsher
Comptroller General of the United States
United States General Accounting Office
Washington, DC 20548

Dear Mr. Bowsher:

I am writing in response to the Draft Report to the Secretary of Education on the management of the Department. I appreciate the opportunity to review and comment on the draft report.

Although the report, in focusing on problems within the Department, overlooks some positive efforts and successes -- and may thereby paint a somewhat overly bleak picture -- I believe it is generally an accurate assessment of the management problems that I inherited and plan to address. In a comprehensive form, it reinforces many of the same conclusions that the Department itself has reached as a result of the employee survey that was conducted last year.

The draft report will serve as a useful road map to me and my senior staff as we pursue efforts to improve the culture and management of the Department. Its description of the management neglect and staffing problems that characterized the Department during the 1980s provides me with a valuable historical perspective and insight into the dimensions of the problems we face. Some changes can be made in the short term but others will take several years to build up the Department's management capacity which has been eroded for the last 12 years.

I have appointed Deputy Secretary Madeleine Kunin to oversee our efforts to strengthen the Department's management. Two teams representing all operating units of the Department have been meeting for several months to lay the groundwork for a Department-wide Total Quality Management (TQM) initiative. They are near completion of a strategic plan and TQM guidelines that would serve as an initial framework for improving the Department's performance in the critical areas addressed by your draft report. In addition, the President's initiative to reinvent government will provide us with a further opportunity to identify and correct many long-standing management weaknesses. I hope that we may continue to have your suggestions as we proceed to tackle these problems.

Yours sincerely,

Dick Riley
Richard W. Riley

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Major Contributors to This Report

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Senate Permanent Subcommittee on Investigations
EXHIBIT # 84

[illegible]

United States Senate
COMMITTEE ON
GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

July 28, 1993

The Honorable Richard W. Riley
Secretary of Education
U.S. Department of Education
Federal Office Building 6
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary Riley:

As you know, the Senate Permanent Subcommittee on Investigations is conducting an inquiry into allegations of fraud and abuse in the Pell Grant program. During the course of this ongoing investigation, several policy questions have been raised about the program.

In support of this investigation, please provide the following information to the Subcommittee:

- For the period 1986-1992, the number of Pell grant awardees who were incarcerated prisoners (federal, state, and/or local), and the total amount of Pell grants awarded to them.

- For the period 1986-1992, the number of Pell grant awardees who were studying abroad, and the total amount of Pell grants awarded to them.

- During the period 1982-1992, the number of Pell grant awardees who received Pell grants for more than five consecutive years, and the total amount of their Pell grant awards.

- During the period 1975-1992, the number of Pell grant awardees who received Pell grants for more than ten years, and the total amount of their Pell grant awards.

- For the period 1986-1992, the number of Pell grant awardees who were non-U.S. citizens, and the total amount of Pell grants awarded to them.

The Honorable Richard W. Riley
Page 2.

- The number of schools participating in Title IV programs which are not regulated by their respective State higher education departments

- The number of schools participating in Title IV programs which are not regulated by their respective State governments.

- The number of schools participating in the Pell grant program which are specifically exempt from the State license requirement of the Higher Education Act.

- A list of the institutions which participate in the Pell grant program, sorted by state. Indicate accrediting agency for each.

Thank you for the continued cooperation of the Department during the Subcommittee's investigation. I am hopeful that this inquiry will result in assisting the Department and the Congress in implementing meaningful reforms in the student aid programs.

Sincerely,

Sam

Sam Nunn, Chairman
Permanent Subcommittee
on Investigations

UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

October 13, 1993

RECEIVED BY
SENATE PERMANENT
SUBCOMM ON INVESTIGATIONS
OCT 13 1993
MAJORITY OFFICE

Honorable Sam Nunn
Chairman, Permanent Subcommittee
on Investigations
Committee on Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Senator Nunn:

Thank you for your letter of July 28, 1993 in which you requested data and other information concerning the Federal Pell Grant Program. As indicated in my interim response, I directed my staff to compile as much data as could be produced within the past several weeks. We now have sufficient information to respond. The specific responses to your data requests are provided in the enclosures to this letter. I apologize for the delay in responding to you.

I hope this information is useful to you. If you have any further questions, please contact me.

Yours sincerely,

Dick Riley
Richard W. Riley

Enclosures

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-0100

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

Question: **For the period 1988-92, the number of Pell Grant awardees who were incarcerated prisoners (federal, state, and/or local), and the total amount of Pell Grants awarded to them.**

Answer: Because incarceration had not been an eligibility criterion, we did not collect data on such students. However, we have employed an imputation methodology in the past as a means of obtaining an estimate of prisoners who obtain Federal Pell Grants. The core assumption for this methodology is that any specific mailing address (mailbox, street location, etc.) where four (4) or more Federal Pell Grant recipients share a common address is an incarceration facility. (We recognize the inherent flaws in the assumption since it is possible that a number of students who are not incarcerated may also share a common address.)

Using this methodology, we estimate that less than 70,000 incarcerated students received Federal Pell Grants each year for the award periods in question.

Additionally, the Department's Office of the Inspector General (OIG) recently completed a study of incarcerated students in conjunction with several routine audits. The OIG auditors used a different methodology than the Departmental staff. (The OIG auditors assumed if Federal Pell Grants were awarded to a large group of students having a common address in the same zip code as a federal or state prison, then that common address was a prison school.)

Using this more conservative methodology, OIG estimates that about 25,000 prisoners received Federal Pell Grants each year for the award periods in question.

Please note that because of the restrictions of Pell eligibility pertaining to incarcerated students imposed by the Higher Education Amendments of 1992, we are, for the first time, collecting 1993-94 award year data on incarcerated students. We will be happy to share the data with you at the conclusion of the 1993-94 processing cycle next summer.

Question: **For the period 1988-1992, the number of Pell Grant awardees who were studying abroad, and the total amount of Pell Grants awarded to them.**

Answer: As in the response to the previous question, we do not collect data on Federal Pell Grant recipients who study abroad for a portion of their education experience because such information does not impinge on student eligibility.

There are, of course, several universities and colleges which maintain extension programs abroad, primarily on military bases for the purpose of enabling servicemen and servicewomen (and their families) to continue their education. Furthermore, a number of colleges and universities actively encourage their academically outstanding students to participate in "Junior Year Abroad" programs whereby undergraduates study abroad during their junior year. It is important to remember that these undergraduates maintain their enrollment status in a domestic college or university which, depending on the school, either utilizes its own faculty to provide the instruction abroad or enters into an agreement with a foreign university to provide all of the instruction during this junior year. Indeed, the Education Amendments of 1992 amended the Higher Education Act of 1965 to specifically endorse the use of Federal Pell Grant funds for study abroad programs. (See, for example, Section 401(b)(7) and Section 401(c)(2).)

Question: **During the period 1982-1992, the number of Pell Grant awardees who received Pell Grants for more than five consecutive years, and the total amount of their Pell Grant awards.**

Answer: The data table in this attachment displays the number of recipients who received between six and ten Pell Grant awards during the 1982-83 to 1991-92 award years. The table shows, for example, that 1,010 individuals received Pell Grant awards for ten (10) years which totaled $14,786,845. Thus, these individuals were awarded an aggregate average of approximately $14,640 for that time period.

Pell Grant Program - Award Years 1982-83 to 1991-92
Nunn Question - Pell Grant Recipients for More than Five Consecutive Years
Prepared by: Pell Grant Systems Division/PSS/SFAP

Number of Award Years	Number of Recipients	Total Award
6	113.737	$1.040.979.923
7	34.598	$368.681.549
8	10.220	$123.513.843
9	3.011	$40.377.907
10	1.010	$14.786.845
Total	162.576	$1.588.340.067

Question: During the period 1975-1992, the number of Pell Grant awardees who received Pell Grants for more than ten years, and the total amount of their Pell Grant awards.

Answer: The data in this attachment displays, in the same format as the previous table, the number of individuals who received between eleven and seventeen awards during the 1975-76 to 1991-92 award years. The table shows, for example, that one individual received a Pell Grant award for seventeen years during the 1975-76 to the 1991-92 period. This individual received an aggregate amount of $19,667 in Pell Grant awards.

Pell Grant Program - Award Years 1975-76 to 1991-92
Nunn Question - Pell Grant Recipients for More than Ten Years
Prepared by: Pell Grant Systems Division/PSS/SFAP

Number of Award Years	Number of Recipients	Total Award
11	2,594	$34,509,714
12	970	$14,168,933
13	363	$5,561,602
14	123	$2,025,279
15	31	$590,908
16	13	$257,499
17	1	$19,667
Total	4,095	$57,133,602

Question: For the period 1988-92, the number of Pell Grant awardees who were non-U.S. citizens, and the total amount of Pell Grants awarded to them.

Answer: During the period which spans the 1988-89 to 1991-92 award cycles, 1,206,078 eligible non-citizens received Pell Grant awards which totaled $1,881,014,007.

PELL GRANT PROGRAM, AWARD YEARS 1988-89 to 1991-92
Nunn Question - Potential Non-Citizen Recipients
Prepared by: Pell Grant Systems Division/PSS/SFAP

Award	Permanent Residents and Other Eligible Non Citizens	
Year	Count	Awards
1988-89	253,388	$369,087,223
1989-90	282,696	$426,325,010
1990-91	310,461	$476,245,009
1991-92	359,533	$589,356,765
Totals	1,206,078	$1,861,014,007

(NOTE: Derived from Citizenship Code provided with Eligible Applicant data.)

Source: Student Financial Aid Handbook, Chapter 2, Appendix A,
for years 1988-89 through 1991-92:
In order to receive aid, a student must be in one of the following categories relating to citizenship:

1. A U.S. citizen or national. The term "U.S. citizen" includes citizens of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands. The latter became a Commonwealth of the U.S. on November 3, 1986. The term "national" includes not only all U.S. citizens, but also natives of American Samoa or Swain's Island.
2. Citizens and residents of the Pacific Islands. Under terms of the Compact of Free Association (P.L. 99-239), as extended under P.L. 100-369, some residents of Palau, the Marshall Islands and the Federated States of Micronesia (former Trust Territories) will continue to be eligible for aid from Pell, SEOG, CWS. The Compact was signed and effective for the Marshall Islands on October 21, 1986 and for the Federated States of Micronesia on November 3, 1986. Residents of Palau, the only remaining Trust Territory, will continue to be eligible as "permanent residents of the Trust Territories of the Pacific Islands" until the Compact with Palau has been ratified by Congress and the people of Palau.
3. A permanent resident of the U.S. A permanent resident of the U.S. must provide documentation from the Immigration and Naturalization Service (INS).
4. Other eligible non-citizens. An individual who can provide documentation from the INS that (s)he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident. Includes refugees, persons granted asylum, Cuban-Haitian Entrants, temporary residents under the Immigration Reform and Control Act of 1986, and other.

Question: **The number of schools participating in Title IV programs which are not regulated by their respective State higher education departments.**

The number of schools participating in Title IV programs which are not regulated by their respective State governments.

The number of schools participating in the Pell Grant Program which are specifically exempt from the State license requirement of the Higher Education Act.

(Because of the similarity of these questions, the responses are grouped together.)

Answer: While it is not clear precisely how "regulated" was intended to be defined, the key connection between the States and the Department of Education with regard to Title IV participation (including the Pell Grant Program) is that the institution must have legal authority to operate within the State. Legal authority usually means licensure or legislative charter depending on the type and control of the institution. In some cases, under State constitution or law, certain types of institutions are exempt from such requirements. While ED does not know the number in each category of State authorization, every institution must prove to ED through documentation from the State that in some way it is legally authorized to operate within that State.

Senate Permanent Subcommittee on Investigations

EXHIBIT # 87

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. [illegible]

Bureau of Higher Education

August 7, 1967

Reply to Attn. of:
BHE:DSFA:IES

Dear Dr. Carr:

The program eligibility of the Rabbinical Academies, most of which are located in New York, has posed many problems. The State of New York has generally excluded the Rabbinical Academies from eligibility under the various programs of student financial aid directed by the New York Higher Education Assistance Corporation. The basis for this decision seems to rest with the fact, cited in your letter of July 6, 1967, which is attached, that an institution of this category has "absolutely no accredited status as an institution of higher education in New York State." Rather, such an institution "has charter rights under the Religious Corporation Law to prepare candidates for the Jewish Rabbinate, but it has no legal status to offer courses for secular credit or to confer degrees." Also, it is to be noted that the Rabbinical Academies have not been accredited by the Regional Associations and no "professional association" has been initiated.

In contrast to the New York policy, the U.S. Office of Education has established the Rabbinical Academy as eligible for Federal student aid programs provided it could provide an adequate substitute for accreditation, namely the "three certifications." This is an acceptable procedure; it should be continued.

However, the question of the eligibility of these schools hinges upon a single aspect of the definition of an "institution of higher education" as contained in Section 801(a)(2) of the Higher Education Act of 1965. This sub-section states: ".... is legally authorized within such State to provide a program of education beyond secondary education ...." The Rabbinical Academy normally meets the other criteria of the definition; this single item is the crux of the problem.

There must be justification for excluding or including these schools as eligible institutions under various Federal programs. The policy cited below justifies their inclusion.

* * * * *

The Rabbinical Institution, even though it is frequently chartered under a religious proviso rather than an educational proviso of a State, and despite the lack of a nationally recognized accrediting

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agency which is primarily concerned with its welfare and academic stimulation, must be recognized as making a unique and meaningful educational contribution to a large segment of the American population. Although the educational program of these institutions frequently departs from the traditional course and semester hour collegiate program of the recognized college or university, it cannot be denied that these institutions attain their educational objectives efficiently and effectively. The scholarship of the Rabbinate attests to this without equivocation.

Therefore, it is the policy of the U.S. Office of Education to accept the chartered and established Rabbinical Academy as eligible for participation in various federally sponsored programs provided the institution: (1) is chartered and thus legally authorized to operate in a State; (2) meets the other general criteria of an "eligible institution"; and (3) meets the specific requirements as outlined in the enabling legislation for a particular program.

* * * * * *

Federal Control ?

This policy is practical, equitable, and obviously defensible. It is our sincere hope that you will not find it incompatible with your State laws and regulations.

Sincerely yours,

Walter J. Gale, Chief
Institutional Eligibility Section
Insured Loans Branch
Division of Student Financial Aid

Edward F. Carr, Chief
Bureau of College Evaluation
The State Education Department
Albany, New York 12224

Enclosure

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

file
Hebrew-Social
Investigation

November 29, 1979

Dawson, Kimmelman and
  Clayman, Esqs.
305 Madison Avenue
New York, New York 10017

Attention: Samuel Dawson, Esq.

Dear Sam:

This letter will serve to memorialize our agreement concerning compliance with subpoenas duces tecum addressed to the following institutions:

- -- ✓Beer Shmuel Talmudical Academy
- -- United Talmudical Academy
- -- Rabbinical Seminary and Yeshivah Oir Hachiam of Task
- --✓Ohr Yisroel Rabbinical College
- -- Rabbinical College of Sanz
- --✓Yeshiva Beth Shearim Mishne Halachoth Gedoloth Institute
- -- Rabbinical Seminary of New Square
- --✓Bais Yaakov of Brooklyn Seminary

It has been agreed that as a first alternative to actual compliance by the named institutions, the Office of the Inspector General will examine records which are in the custody and/or control of Abraham Tenenbaum, who is the student financial aid advisor to each of the institutions.

It is understood that the documents which are in the custody of Mr. Tenenbaum are items 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 37, 38, 39, 40, 41, 42, 43, 45, 50, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 70 (see schedule annexed to the instant subpoenas).

It is agreed that the documents shall be made available by Mr. Tenenbaum within a week (seven days) after the signing of this agreement. Any and all documents produced shall be examined by representatives of the Office of the Inspector General who are authorized to make copies of any document when they deem necessary.

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OFFICE	SURNAME	DATE	OFFICE	SURNAME	DATE	OFFICE	SURNAME	DATE
							EXHIBIT A	

FINAL SCHEDULE OF AUDITS

January 14	Rabbinical Seminary of New Square
January 16	Tasher Yeshiva
January 23	Ohr Yisroel Rabbinical College
January 30	Be'er Shmuel Talmudic Academy
February 11	Yeshiva Beth Shearim Mishne Halachoth Gedoloth Institute
February 19	Bais Yaakov of Brooklyn Seminary
March 3	Rabbinical College of Sans
March 17	United Talmudic Academy

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EXHIBIT B

DATE

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

This agreement will supersede all prior written agreements ent into between counsel for the above-named institutions and HEW, Office of the Inspector General.

Sincerely yours,

/s/ Richard B. Lowe III
Richard B. Lowe III
Acting Inspector General

I consent to the agreement stated above.

Sam Dawson

Beit Yaakov of Brooklyn Semin

Beer Shmuel Talmudic Academy

Yeshiva Beth Shearim Mitzne
Halachoth Geuloth Institute

United Talmudic Academy

Rabbinical Seminary of New Squa

Ohr Yisroel Rabbinical College

Tasher Yeshiva

Rabbinical College of Sanz

HWerblowsky:sd 1/2/80
Reading file - HW

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OFFICE	SURNAME	DATE	OFFICE	SURNAME	DATE	OFFICE	SURNAME	DATE

ATTACHMENT

1-7-79	2:00 p.m.	Simson Rosentmal
	3:00 p.m.	Isreal Taub
	4:00 p.m.	Isacher Ostreicher
	5:00 p.m.	Menesha Rosenberger
	6:00 p.m.	Juda Gold
1-8-79	9:00 a.m.	Eugene Herskovits
	10:00 a.m.	Jacob Rosenbaum
	11:00 a.m.	Mendel Green
	12:00	Aron Gold
	1:00 p.m.	Alemalch Hollander
	2:00 p.m.	Yechaskel Landau
	3:00 p.m.	Meir Apal
	4:00 p.m.	Slomo Wasserstein
	5:00 p.m.	Saul Rottenstien
	6:00 p.m.	Solomn Laundew

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EX SEC
DATE SENT

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
THE OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

THE GENERAL COUNSEL

January 2, 1980

MEMORANDUM

FOR: Inspector General

FROM: Joan Z. Bernstein Joan Z. Bernstein

SUBJECT: Eligibility of Rabbinical Schools in New York to Participate in Office of Education Student Financial Assistance Programs

Issues

1. Whether the HEW Office of Education's (OE) determination, of more than 12 years standing, that certain rabbinical schools operating in New York are institutions of higher education as defined by the Higher Education Act of 1965 (HEA) is legally supportable. This question has been raised because a school must meet the HEA's definition of "institution of higher education" in order to be eligible for participation in the HEA student financial assistance programs.

2. What steps would OE legally be required to take if it decided to reverse its determination of the eligibility of the New York rabbinical schools so that their students could no longer participate in the HEA student financial assistance programs.

Background

You have informed us that the Office of the Inspector General is conducting an investigation of several rabbinical schools in New York which presently participate in various student financial assistance programs administered by OE under the HEA. In addition, your office has sought to obtain information from the Association of Advanced Rabbinical and Talmudic Schools (AARTS), the OE-recognized accrediting association for the rabbinical schools. One of the questions raised in the course of your investigation is whether OE's determination that these rabbinical schools are eligible to participate in the HEA student financial aid programs is legally supportable. You have asked me to provide you with a legal opinion addressing this issue. We have also considered what steps OE would be required to take were it to decide now to reverse its determination of eligibility and to no longer permit participation of the rabbinical schools in HEA [illegible]

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Conclusion

For the reasons described below, I have concluded that (1) OE's determination of eligibility is legally supportable, and (2) to reverse its determination, OE should publish its new interpretation of the HEA for comment in the Federal Register before making the change final.

Analysis

1. Determination of Eligibility

a. Federal Statutory Requirements

Section 1201 (a) of the HEA (20 U.S.C. 1141(a)) provides that, for purposes of the Act,

> "The term 'institution of higher education'
> means an educational institution in any
> State which...(2) is legally authorized
> within such State to provide a program of
> education beyond secondary education...."

This section of the HEA also lists a number of other specific requirements which a school must meet in order to be considered an institution of higher education. However, it is my understanding that there is presently no doubt that the rabbinical schools meet these other requirements and, for purposes of this analysis, I will assume that they do so.

The precise meaning of the requirement that a school be "legally authorized within [the State in which is is located] to provide a program of education beyond secondary education" is not explained in the legislative history of the HEA or other statutes incorporating the same requirement. See House Report No. 89-621 (July 14, 1965); Senate Report No. 89-673 (September 1, 1965); House Report No. 89-1178 (Conference Report)(October 19, 1965).

Generally, the HEA was intended to strengthen the educational resources of colleges and universities and to provide financial assistance to students at the post-secondary level. 1965 U.S. Code and Adm. News, pp. 3971-72. In fixing the scope of this assistance, the Congress did not create specific Federal criteria by which to judge institutions seeking eligibility for HEA programs. Instead, the Congress based the statutory definition of eligible institution upon recognition by the academic community and by the State in which the institution is located. Accordingly, a determination of the eligibility of the rabbinical schools must include an analysis both of New York State law and of the State's practices in dealing with these schools.

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b. New York Statutory Scheme and Practice

New York State has a well-developed body of State education law. The Regents of the University of the State of New York, within the State Education Department, have the authority to "incorporate any university, college, academy, (...) or other institution or association for the promotion of science, literature, art, history, or other department of knowledge, or of education in anyway (...) or other institutions whose approved purposes are, in whole or in part, of educational or cultural value deemed worthy of recognition and encouragement by the university." N.Y. Education Law §216 (McKinney, 1969). Thus, the Regents have the statutory authority to incorporate schools which provide education and training leading only to ordination. New York State law does recognize that institutions with educational purposes may be incorporated under laws other than the State education law. However, State law also strictly limits the educational activities these institutions may conduct without the consent of the Regents or the State Commissioner of Education. For example, institutions not incorporated by the Regents or holding a special charter from the State legislature are prohibited from conferring college or university degrees without written consent from the Regents. N.Y. Education Law §224(1). Further, the law provides that "...no corporation shall, under authority of any general act, extend its business to include establishing or carrying on any educational institution or work, without the consent of the board of regents.". N.Y. Education Law §216.

We understand that the rabbinical schools in question are incorporated under New York State's Religious Corporations Law to provide a course of study for candidates for ordination. (See June 2, 1977 letter to Teresa Wilkins of OE from Edward Carr, then Chief of the New York State Education Department Bureau of College Evaluation.) These schools do not conduct their educational activities under the aegis of the State Education Department and that Department does not accord them the status of State-accredited institutions. However, while the rabbinical schools "have no authorization by New York State to conduct formal secular education." (see August 2, 1978 letter to John Proffitt from Alvin Lierheimer, then Associate Commissioner for Higher Education in New York) the State appears to have authorized them to provide post-secondary education leading to ordination.

First, New York State has permitted these schools to incorporate for the purpose of carrying on religious educational activities. Second, OE has received a good deal of correspondence from New York State officials which indicates that the State is fully aware of the educational activities of the

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rabbinical schools. And while the State has encouraged these schools to seek a charter from the Regents, it has not required them to do so. Having a charter would apparently only serve to authorize the schools to conduct educational programs for "formal credit in a secular sense." (See June 6, 1967 letter to Wilkins from Carr.) In other words, it is apparent that New York State has interpreted its own Education Law to govern only secular education: As long as a school provides solely religious education or education leading to ordination, it need only be incorporated under the Religious Corporations Law in order to have the legal authority to conduct its educational activities.*

New York State may have determined that it cannot, because of First Amendment restrictions, require rabbinical schools to operate under the authority of the State Department of Education. Or the State simply may have opted not to exercise Department of Education jurisdiction over these schools. In either case, the State has clearly recognized the authority of these schools to prepare students for the rabbinate.

c. Relation of Federal Requirement to State Statutory Scheme

Determination of what constitutes an adequate level of State recognition for purposes of the HEA depends upon the particular structure and application of a State's regulatory scheme. For example, in States which do not have an education department or similar agency, express approval by the State of an institution's educational activities would clearly not be required for eligibility under the HEA. There is no doubt that the rabbinical schools have a different status than most other educational institutions operating under New York State law. Accordingly, in determining whether OE's position that these schools are eligible for student assistance under the HEA is legally supportable, we should consider whether the particular status of the rabbinical schools under New York State law compromises their status as eligible institutions under the HEA. At a minimum, the HEA's "legally authorized" requirement means that the institution must not be prohibited by the State from conducting its educational activities. Further, to give greater effect to the HEA requirement, it is not unreasonable to assume that the Congress intended OE to defer to State authority concerning recognition of the degree or other symbol of achievement or competence conferred by an

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* The Regents have chartered a number of institutions providing education leading to ordination. A charter permits these institutions to offer degrees for secular recognition.

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institution.* In the case of the rabbinical schools, New York State does not exercise its authority under its education laws to pass judgment on the conferment of the right to enter the rabbinate. The rabbinical schools therefore are authorized by the State to confer religious degrees upon their students without the Regents' imprimatur. Thus, for schools providing education only for religious recognition, CE could have reasonably concluded that the deference to State authority which the HEA arguably requires is not compromised by a determination that these schools are eligible under the HEA.

Finally, although New York State Department of Education officials have characterized the rabbinical school programs as only "informal" education, my view is that CE could have legally concluded that the schools are in fact "legally authorized to provide a program of education beyond secondary education." (Emphasis added.) First, there has been no suggestion that the rabbinical education is not "post-secondary."** Further, New York State officials have characterized the education provided by the rabbinical schools as "informal" only in the sense that it does not count for "formal credit in the secular sense" or lead to a secular degree. There is nothing within the HEA definition of "institution of higher education" which would clearly exclude schools which provide religious rather than secular education or which prepare their students solely for a religious occupation. In fact, the HEA contains a definition of "school or department of divinity" which includes institutions "the program of instruction of which is designed for the education of students(...) to prepare them to become ministers of religion..." HEA §1201(e). The HEA expressly prohibits participation by these schools in the Act's institutional assistance programs (see, for example, sections 114, 207, and 306) and, by contrast, implicitly permits their participation in the student assistance programs. Thus, in my judgment, CE's determination that the

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* In my view, the level of State recognition required by the HEA does not necessarily include academic accreditation, even if the State has an accreditation system. This is supported by the fact that accreditation requirements are specifically covered in a separate subsection of the HEA definition of "institution of higher education." HEA §1201(a)(5).

** In any event, there is a separate specific HEA requirement that eligible institutions admit "as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate." HEA §1201(a)(1).

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rabbinical schools are "legally authorized within [New York] to provide a program of education beyond secondary education" within the meaning of the HEA, and are accordingly eligible to participate in HEA student assistance programs, is legally supportable.

2. Reversal of Determination of Eligibility

At this time, OE might wish to consider whether it should, for the future, regard the "legally authorized" language of section 1201(a)(2) of the HEA (and of other similar sections of the HEA) as requiring a religious institution to be approved by a State education agency with comprehensive chartering authority over all institutions of post-secondary education, if such an agency exists in the State in question. An issue would then be presented as to the procedure which OE would have to use before it could adopt this new interpretation -- particularly with regard to institutions, such as the rabbinical schools, which are currently participating in OE's programs but which might become ineligible under the new interpretation.

A new interpretation of statutory language which OE intends to have general applicability falls within the scope of section 431 of the General Education Provisions Act (20 U.S.C. 1232)(GEPA). Section 431(b) of GEPA requires OE to publish such an interpretation in the Federal Register and comply with the informal rulemaking provisions of the Administrative Procedure Act, 5 U.S.C. §553.* This section generally requires an agency to publish a Notice of Proposed Rulemaking, provide interested persons an opportunity to participate in the rulemaking, and consider public comments before adopting a rule.

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* Section 431(d) of GEPA requires that the final interpretation take effect only after a Congressional review period, usually 45 days, following the transmission of that final version to the Congress concurrently with its publication in the Federal Register.

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We could possibly argue that the proposed change is exempt from the notice and comment requirements of §553 under clause (b)(3)(A), which exempts inter alia "interpretative rules."* Even "interpretative" rules must be developed through the informal rulemaking process where they would have a "substantial impact" on those to be regulated.** Moreover, where the rule is a change in prior agency policy that would adversely affect existing rights, use of the (b)(3)(A) exemption is especially disfavored.***

A court might well deem the proposed change to be an "interpretative" rule, but an institution denied eligibility under the changed policy and likely to be put out of operation or made financially inaccessible to its students as a result, would be able to make a compelling showing of "substantial impact" requiring the use of informal rulemaking. In addition, the proposed new interpretation would surely be viewed as a change in agency policy that adversely affects existing rights where the effect would be to remove from participation in Federal programs institutions, such as the rabbinical schools, which had been participating in those programs for 12 years. These arguments would be particularly forceful, if OE's new interpretation would, as we suspect, affect considerably more than a handful of institutions.

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* None of the other exemptions from the §553 informal rulemaking process could be used. There does not appear to be any basis for a finding under clause (b)(3)(B) that use of the informal rulemaking process would be "impracticable, unnecessary, or contrary to the public interest." The Department has an established policy of not availing itself of the §553(a)(2) exemption for "a matter relating to agency management or personnel or to public property, loans, grants, benefits or contracts." 36 Fed. Reg. 2532 (Feb. 5, 1971).

** See Phillips Petroleum Co. v. Dept. of Energy, 449 F. Supp. 760 (D. Del. 1978), aff'd sub nom Standard Oil Co. v. Dept. of Energy, 596 F. 2d 1029 (Temp. Emer. Ct. App. 1978); Pickus v. United States Board of Parole, 507 F. 2d 1107 (D.C. Cir. 1974); Lewis-Mota v. Secretary of Labor, 469 F. 2d 478 (2d Cir. 1972).

*** For recent applications of this principle, see Standard Oil Co. v. Dept. of Energy, supra note 2, and the District Court opinion in Energy Reserves Group, Inc. v. Dept. of Energy, 447 F. Supp. 1135 (D. Kan. 1978), aff'd, 589 F. 2d 1082 (Temp. Emer. Ct. App. 1978).

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Thus, I doubt whether OE could reverse a long-standing, consistently followed, and substantively important agency practice of the type described above without following at least minimal notice and comment procedures. Because such a change is likely to be contested vigorously and ultimately be reviewed by a court, I think we would run unnecessary risks by foregoing informal rulemaking. In any event, public participation would be extremely useful in this situation to assist us in determining what the effects of such a change would be, particularly in light of the many different State accreditation schemes.*

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* The rabbinical schools do not have the right to a formal hearing under the HEA before losing their eligibility to participate in OE's student financial assistance programs as a result of OE's new interpretation of the "legally authorized" language. Section 497A(a) of the HEA (20 U.S.C. 1088f-1(a)) authorizes OE to prescribe regulations for the limitation, suspension, or termination, after a formal hearing, of the eligibility under OE's student financial assistance programs of an "otherwise eligible institution" if OE determines that the institution has violated or failed to follow programmatic requirements. However, an institution which fails to satisfy the definition of "institution of higher education" in section 1201(a) of the Higher Education Act, is not an "otherwise eligible institution," nor is it one which OE has determined to have violated or failed to follow programmatic requirements.

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MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
OFFICE OF THE INSPECTOR GENERAL

TO : Mr. Richard Hastings, Acting Director
Division of Certification
and Program Review

DATE: JAN 23 1980

REFER TO:

FROM : Mr. Richard B. Lowe III
Acting Inspector General

SUBJECT: Request for Emergency Action

BACKGROUND

On January 15, 1980 members of the Office of the Inspector General, Division of Special Assignments, met with you and other Office of Education staff for the purpose of acquainting you with certain facts which have come to light as a result of an inquiry presently being conducted.

After hearing all of the details, it was the unanimous consensus that Emergency Action was justified against the institutions involved, as well as the students of those institutions. You requested that a document be supplied recounting the history of the inquiry.

FACTS

In connection with a comprehensive inquiry into the receipt of student financial aid by some 50 New York City based rabbinical seminaries, and their students, the OIG, Division of Special Assignments issued eight administrative subpoenas *duces tecum* to the following institutions:

Be'er Shmuel Talmudical Academy
United Talmudic Academy
Ohr Yisroel Rabbinical College
Rabbinical College of Sanz
Bais Yaakov of Brooklyn Seminary
Yeshiva Beth Shearim Mishne Halachoth Institute
Rabbinical Seminary of New Square
Tasher Yeshiva

The subpoenas were issued on October 18, 1979, in aid of the investigation, and to verify institutional and student eligibility information contained in documents filed with the Office of Education.

Prior to the return date, the legal firm of Dawson, Kimelman and Clayman advised the OIG that they represented the institutions. Pursuant to their request, negotiations ensued which resulted in an agreement that prior to seeking compliance with the subpoenas, the OIG would first review the documents in possession of Abraham Tenenbaum, the accountant and student financial aid consultant for these (and numerous other) institutions. The purpose of this review was to determine the sufficiency of these records. If in the opinion of the OIG, these records were adequate for the demands of the investigation, compliance with the subpoenas would be waived.(Exhibit A)

Numerous appointments were made between our office and the attorneys and/or Mr. Tenenbaum to review the work papers, and on every occasion except one the attorneys and/or the consultant cancelled the appointments.

On the one occasion that DSA personnel went to Tenenbaum's office only a small number documents pertaining to one school were available for review. Tenenbaum stated that the schools had all the other records, and he did not know how long it would take to gather all the material, or even if such material could be obtained.

Because of the failure to implement the initial compromise, a new written agreement was reached between our office and the institutions. Our office would delay the return date of the subpoena, and the institutions would allow a complete audit of their books. If the institutions hindered the audit then they would, upon seven days notice, comply with the supeona.

A schedule of audits was prepared by our auditors in conjunction with the attorneys. This schedule was revised on a number of occasions at the request of the attorneys.(Exhibit B)

On January 7, 1980, the agreement was signed by Acting Inspector General Lowe and the various representatives of the shools. (Exhibit C) (The attorneys have, at this time, refused to supply us with an executed copy of the signed agreement. They have, however, acknowledged that their clients have signed it.)

On January 10, 1980, four days before the audit was to begin, the attorney for Tenenbaum advised us that, on his advice, his client would not be at the institutions during the audit, nor would he cooperate with the schools.

The attorneys for the schools advised us that, as a consequence of Tenenbaum's recalcitrance, the audit could not be conducted without the accountant and, therefore, they considered the agreement null and void. They further advised us that a meeting between the various parties and their legal representatives was to be held on January 13, 1980.

On January 14, 1980, the day the audits were to begin, the attorneys advised us that all agreements were null and void, and that the institutions would not allow an audit of their books and records. The institutions felt that the OIG was conducting a criminal inquiry and therefore, the institutions did not have to permit an audit.

During the negotiation period, OIG investigators attempted to interview students whose names were "kicked out" by the computer. The purpose of these interviews was to verify data contained on the student applications. Except for one or two instances, OIG personnel could not locate any of the students. Their relatives refused to give us any information. In addition, none of the students ever returned our calls.

The attorneys for the institutions notified us that they also represented the students. According to the lawyers, our attempts to interview the students were causing a disturbance in the community. By mutual agreement, it was arranged that after supplying the attorneys with a list of the students we wished to interview, they would have the students appear at our New York office at pre-scheduled times.

Pursuant to this agreement, our office prepared a student list for Yeshiva Tash and gave it to the attorneys. (Exhibit D)

A few days before the interviews were to begin, a second attorney called and advised us that he represented the students on the Tash list, as well as all past and future students of the institution. He stated that he would not allow the students to be interviewed unless all our questions were submitted in writing in advance. The students would not necessarily appear in person but he would supply us with written answers to the questions. When our office refused to agree to this procedure, he forbade us from speaking to any of the Tash students.

Eventually, Dawson, Kimelman and Clayman also forbade us from interviewing any of the students at the institutions they represented.

Due to our inability to conduct an audit and/or to interview students, we cannot determine whether the institutions are properly managing the student aid funds, or whether the students, if they exist, have supplied accurate information to the Office of Education.

REQUESTED ACTION

It is the opinion of the Office of the Inspector General that Emergency Action (45 CFR 168.14) is warranted against the institutions involved and their students.

Your office has also advised that there exist additional grounds for such action. It appears that Be'er Shmuel Talmudical Academy, Ohr Yisroel Rabbinical College, Yeshiva Beth Shearim Mishne Halachoth Gedoloth Institute, and Bais Yaakov of Brooklyn Seminary have not filed the mandated audit reports for campus-based programs (due December 1978).

Copies due 4/1/80

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION

TO : William D. Yancey, Acting Chief
EEX Federal Assistance Financing Branch
Through William Ward, Director
Finance Division, OM/OE

DATE: 3 0 JAN 1980

FROM : Deputy Commissioner for
Student Financial Assistance

SUBJECT: Request to Withhold Further Release of Funds - For 8 schools on attached list

This memorandum requests that the authority of the above named institution to draw further funds be withheld, effective immediately, based upon the emergency action being taken against these institutions. (see attached letter being sent to institutions, today)

Thomas A. Butts

cc: Deputy Commissioner for Higher
and Continuing Education
Director, Division of Program Operations, BSFA
Chief, Campus and State Grant Branch, DPO, BSFA
Chief, Basic Grant Branch, DPO, BSFA
Director, Division of Compliance, BSFA
Chief, Institutional and Lender Certification
Branch, DCPR, BSFA
Chief, Audit Review Branch, DCPR, BSFA
Chief, Program Review Branch, DCPR, BSFA
Regional Administrator, SFA - IX
Director, Finance Division, OM
Chief, Audit Liaison and Coordination Staff, OEDC-SS, OC
Assistant Director, Division of University and
Nonprofit Audits, HEWAA, OIG

Prepared by: Ronald Lipton - Ext. 59880 - Room 4910, ROB-3

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

07 FEB 1980

30 JAN 1980

X OHR Yisroel Rabbinical College
60-20 Thornton Place,
Forest Hills, NY 11374

Dear President:

This is to inform you that in accordance with the procedures for emergency action set forth in the Limitation, Suspension and Termination regulations, Subpart E of the General Provisions regulations relating to student assistance programs, 45 CFR 168.74, the United States Commissioner of Education will withhold funds from your institution and its students under the following programs: Basic Educational Opportunity Grant (BEOG), Supplemental Educational Opportunity Grant (SEOG), National Direct Student Loan (NDSL), College Work-Study (CWS), and Guaranteed Student Loan (GSL). Furthermore, the Commissioner is removing the authority of your institution to obligate funds under those programs. This emergency action does not affect the rights and responsibilities of your institution or any lender or student based on your institution's prior participation in the aforementioned programs.

This action becomes effective on the date you receive this notice and will remain in effect for a period not to exceed thirty days unless a limitation, suspension or termination action is begun under Subpart E of Part 168, 45 CFR 168.71-168.95, during the thirty-day period. If such action is begun, the period of the emergency action may be extended until the completion of that proceeding, including an appeal to the Commissioner. If a limitation, suspension or termination action is begun, you may request an opportunity to show cause why the emergency action is unwarranted pending the outcome of that proceeding.

This emergency action is being taken to prevent the likelihood of substantial loss of funds to the Federal Government and because the likelihood of such a loss outweighs the importance of following the procedures for limitation, suspension or termination set forth in 45 CFR 168.75 and 168.76.

The Office of Inspector General (OIG), the Department of Health, Education and Welfare (DHEW), issued an administrative subpoena duces tecum on October 18, 1979, to verify information contained in documents you filed with the Office of Education about your institution and its students'

eligibility. Subsequently, the OIG refrained from seeking compliance with the subpoena based on promises and agreements by your institution to cooperate in the reviewing and auditing of institutional documents and records, and in the interviewing of your students. Your institution refused to allow the DHEW auditors to audit your records, refused to provide required records and documents, refused to grant access to your records, and refused to allow the OIG to interview students attending your institution.

The emergency action is being taken because of your institution's violations of statutory and regulatory provisions governing the Federal student financial assistance programs. Specifically, section 434(a) of the General Education Provisions Act as well as sections 174.19(e), 175.19(d), 176.19(d), 177.612(d) and 190.85(a) of the NDSL, CWS, SEOG, GSL and BEOG program regulations, respectively, provide that an institution must give the Secretary of HEW, the Comptroller General of the United States, or their duly authorized representatives access to the program and fiscal records required to be maintained for each program. (20 USC 1232c(a); 45 CFR 174.19(e), 45 CFR 175.19(d), 45 CFR 176.19(d), 45 CFR 177.612(d) and 45 CFR 190.85(a)). Further, section 168.12(b)(2) of the General Provisions Regulations relating to student assistance programs requires that the institution provide the Assistant Inspector General for Audit (formerly the Director of the HEW Audit Agency) or the Commissioner with access to the records of the individual or firm conducting program audits. (45 CFR 168.12(b)(2)). See also section 190.83(b) of the BEOG regulations 45 CFR 190.83(b). The Inspector General is a duly authorized representative of the Secretary for purposes of providing access to records under the above regulations.

Because your institution failed to provide us access to your records, we have been unable to conduct an audit or to obtain records for review, and thus cannot determine whether your institution is properly managing the student aid programs, accounting for program funds, or is supplying accurate information to the Office of Education.

This emergency action is also based on your institution's failure to submit non-Federal audits of its participation in the NDSL, CWS, and/or SEOG Program for the period from July 1, 1976 through June 30, 1978. Audits covering this period were to be submitted by December 31, 1978. Your institution's failure to submit these non-Federal audits violates the terms of agreement for the administration of the programs which your institution signed with the Commissioner of Education and the following program regulations: 45 CFR 174.19(g)(NDSL), 45 CFR 175.19 (e)(CWS) and 45 CFR 176.19(e)(SEOG). These regulations require that all of your institution's transactions involving the NDSL, CWS, and SEOG funds shall be audited by the institution or at the institution's direction. The

[illegible] compliance with applicable laws and regulations. Furthermore, the audit must be performed in accordance with the DHEW "Audit Guide" (July 1978) for student financial aid programs. The regulations also specify that such audits shall be carried out at least once every two years.

A copy of the Part 168 regulations under which this action is being taken is enclosed. Should you have any questions with respect to this action, please contact Richard Hastings or Ronald Lipton at (202) 245-9880, or write to them at:

P.O. Box 23838
L'Enfant Plaza Station
Washington, D. C. 20024

Sincerely,

Thomas A. Butts
Acting Deputy Commissioner for
Student Financial Assistance

Enclosure

Be'er Shmuel Talmudical Academy
1363 50th St.
Brooklyn, NY 11219

1116002733A1

United Talmudical Academy
82 Lee Avenue
Brooklyn, NY 11211

1116002642A1

OHR Yisroel Rabbinical College
60-20 Thornton Place,
Forest Hills, NY 11374

1112147497A1

Rabbinical College of Sanz
1420 50th St.
Brooklyn, NY 11219

1111977906A1

Yeshiva Beth Shearim-
Mishne Halachoth Gedoloth Inst.
5306 16th Avenue
Brooklyn, NY 11204

1112201865A1

Rabbinical Seminary of New Square
15 Roosevelt Road
New Square, NY 10977

1136104644A1

Bais Yaakov Seminary of Brooklyn
1362 49th St.
Brooklyn, NY 11219

1112238060A1

Rabbinical College of T
144 Wilson St.
Brooklyn, NY 11211

1112431416A1

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THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N Y 12234

COUNSEL AND DEPUTY COMMISSIONER FOR LEGAL AFFAIRS

September 21, 1990

Dr. Harry Cooley
United States Department of Education
Higher Education Institution
 Eligibility Branch
Seventh and D Streets, S.W.
ROB -- Room 3522
Washington, D. C. 20202-5323

Dear Dr. Cooley:

I have been asked to advise you that the corporation known as Traditional Jewish Studies Center, Inc. is not authorized to confer in this State any degree for which program registration by the State Education Department is required, and requires no State approval or credential in order to exist or to perform postsecondary education functions.

It is therefore my opinion that the above-named institution may offer programs of postsecondary education in this State.

Yours truly,

Lizette A. Cantres

LAC:pjs

cc: Rabbi A. Tenenbaum

DEPARTMENT OF HEALTH EDUCATION AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

30 JAN 1980

Be'er Shmuel Talmudical Academy
1363 50th St.
Brooklyn, NY 11219

Dear President:

This is to inform you that in accordance with the procedures for emergency action set forth in the Limitation, Suspension and Termination regulations, Subpart H of the General Provisions regulations relating to student assistance programs, 45 CFR 168.74, the United States Commissioner of Education will withhold funds from your institution and its students under the following programs: Basic Educational Opportunity Grant (BEOG), Supplemental Educational Opportunity Grant (SEOG), National Direct Student Loan (NDSL), College Work-Study (CWS), and Guaranteed Student Loan (GSL). Furthermore, the Commissioner is removing the authority of your institution to obligate funds under those programs. This emergency action does not affect the rights and responsibilities of your institution or any lender or student based on your institution's prior participation in the aforementioned programs.

This action becomes effective on the date you receive this notice and will remain in effect for a period not to exceed thirty days unless a limitation, suspension or termination action is begun under Subpart H of Part 168, 45 CFR 168.71-168.83, during the thirty-day period. If such action is begun, the period of the emergency action may be extended until the completion of that proceeding, including an appeal to the Commissioner. If a limitation, suspension or termination action is begun, you may request an opportunity to show cause why the emergency action is unwarranted pending the outcome of that proceeding.

This emergency action is being taken to prevent the likelihood of substantial loss of funds to the Federal Government and because the likelihood of such a loss outweighs the importance of following the procedures for limitation, suspension or termination set forth in 45 CFR 168.75 and 168.76.

The Office of Inspector General (OIG), the Department of Health, Education and Welfare (DHEW), issued an administrative subpoena duces tecum on October 18, 1979, to verify information contained in documents you filed with the Office of Education about your institution and its students'

eligibility. Subsequently, the OIG refrained from seeking compliance with the subpoena based on promises and agreements by your institution to cooperate in the reviewing and auditing of institutional documents and records, and in the interviewing of your students. Your institution refused to allow the DHEW auditors to audit your records, refused to provide required records and documents, refused to grant access to your records, and refused to allow the OIG to interview students attending your institution.

The emergency action is being taken because of your institution's violations of statutory and regulatory provisions governing the Federal student financial assistance programs. Specifically, section 434(a) of the General Education Provisions Act as well as sections 174.19(e), 175.19(d), 176.19(d), 177.612(d) and 190.85(a) of the NDSL, CWS, SEOG, GSL and BEOG program regulations, respectively, provide that an institution must give the Secretary of HEW, the Comptroller General of the United States, or their duly authorized representatives access to the program and fiscal records required to be maintained for each program. (20 USC 1232c(a); 45 CFR 174.19(e), 45 CFR 175.19(d), 45 CFR 176.19(d), 45 CFR 177.612(d) and 45 CFR 190.85(a)). Further, section 168.12(b)(2) of the General Provisions Regulations relating to student assistance programs requires that the institution provide the Assistant Inspector General for Audit (formerly the Director of the HEW Audit Agency) or the Commissioner with access to the records of the individual or firm conducting program audits. (45 CFR 168.12(b)(2)). See also section 190.83(b) of the BEOG regulations 45 CFR 190.83(b). The Inspector General is a duly authorized representative of the Secretary for purposes of providing access to records under the above regulations.

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A copy of the Part 168 regulations under which this action is being taken is enclosed. Should you have any questions with respect to this action, please contact Richard Hastings or Ronald Lipton at (202) 245-9880, or write to them at:

P.O. Box 23838
L'Enfant Plaza Station
Washington, D. C. 20024

Sincerely,

Thomas A. Butts
Acting Deputy Commissioner for
Student Financial Assistance

Enclosure

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

30 [illegible] 1980

Rabbinical College of Tash
144 Wilson St.
Brooklyn, NY 11211

Dear President:

This is to inform you that in accordance with the procedures for emergency action set forth in the Limitation, Suspension and Termination regulations, Subpart H of the General Provisions regulations relating to student assistance programs, 45 CFR 168.74, the United States Commissioner of Education will withhold funds from your institution and its students under the following programs: Basic Educational Opportunity Grant (BEOG), Supplemental Educational Opportunity Grant (SEOG), National Direct Student Loan (NDSL), College Work-Study (CWS), and Guaranteed Student Loan (GSL). Furthermore, the Commissioner is removing the authority of your institution to obligate funds under those programs. This emergency action does not affect the rights and responsibilities of your institution or any lender or student based on your institution's prior participation in the aforementioned programs.

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P.O. Box 23838
L'Enfant Plaza Station
Washington, D. C. 20024

Sincerely,

Thomas A. Butts
Acting Deputy Commissioner for
Student Financial Assistance

Enclosure

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DEPARTMENT OF HEALTH EDUCATION AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. [illegible]

30 [illegible] 1980

Bais Yaakov Seminary of Brooklyn
1362 49th St.
Brooklyn, NY 11219

Dear President:

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P.O. Box 23838
L'Enfant Plaza Station
Washington, D. C. 20024

Sincerely,

Thomas A. Butts
Acting Deputy Commissioner for
Student Financial Assistance

Enclosure

DEPARTMENT OF HEALTH EDUCATION AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

30 [illegible] 1980

Rabbinical College of Sanz
1420 50th St.
Brooklyn, NY 11219

Dear President:

This is to inform you that in accordance with the procedures for emergency action set forth in the Limitation, Suspension and Termination regulations, Subpart H of the General Provisions regulations relating to student assistance programs, 45 CFR 168.74, the United States Commissioner of Education will withhold funds from your institution and its students under the following programs: Basic Educational Opportunity Grant (BEOG), Supplemental Educational Opportunity Grant (SEOG), National Direct Student Loan (NDSL), College Work-Study (CWS), and Guaranteed Student Loan (GSL). Furthermore, the Commissioner is removing the authority of your institution to obligate funds under those programs. This emergency action does not affect the rights and responsibilities of your institution or any lender or student based on your institution's prior participation in the aforementioned programs.

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Thomas A. Butts
Acting Deputy Commissioner for
Student Financial Assistance

Enclosure

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

30 JAN 1980

OHR Yisroel Rabbinical College
60-20 Thornton Place,
Forest Hills, NY 11374

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This is to inform you that in accordance with the procedures for emergency action set forth in the Limitation, Suspension and Termination regulations, Subpart H of the General Provisions regulations relating to student assistance programs, 45 CFR 168.74, the United States Commissioner of Education will withhold funds from your institution and its students under the following programs: Basic Educational Opportunity Grant (BEOG), Supplemental Educational Opportunity Grant (SEOG), National Direct Student Loan (NDSL), College Work-Study (CWS), and Guaranteed Student Loan (GSL). Furthermore, the Commissioner is removing the authority of your institution to obligate funds under those programs. This emergency action does not affect the rights and responsibilities of your institution or any lender or student based on your institution's prior participation in the aforementioned programs.

This action becomes effective on the date you receive this notice and will remain in effect for a period not to exceed thirty days unless a limitation, suspension or termination action is begun under Subpart H of Part 168, 45 CFR 168.71-168.83, during the thirty-day period. If such action is begun, the period of the emergency action may be extended until the completion of that proceeding, including an appeal to the Commissioner. If a limitation, suspension or termination action is begun, you may request an opportunity to show cause why the emergency action is unwarranted pending the outcome of that proceeding.

This emergency action is being taken to prevent the likelihood of substantial loss of funds to the Federal Government and because the likelihood of such a loss outweighs the importance of following the procedures for limitation, suspension or termination set forth in 45 CFR 168.75 and 168.76.

The Office of Inspector General (OIG), the Department of Health, Education and Welfare (DHEW), issued an administrative subpoena duces tecum on October 18, 1979, to verify information contained in documents you filed with the Office of Education about your institution and its students'

eligibility. Subsequently, the OIG refrained from seeking compliance with the subpoena based on promises and agreements by your institution to cooperate in the reviewing and auditing of institutional documents and records, and in the interviewing of your students. Your institution refused to allow the DHEW auditors to audit your records, refused to provide required records and documents, refused to grant access to your records, and refused to allow the OIG to interview students attending your institution.

The emergency action is being taken because of your institution's violations of statutory and regulatory provisions governing the Federal student financial assistance programs. Specifically, section 434(a) of the General Education Provisions Act as well as sections 174.19(e), 175.19(d), 176.19(d), 177.612(d) and 190.85(a) of the NDSL, CWS, SEOG, GSL and BEOG program regulations, respectively, provide that an institution must give the Secretary of HEW, the Comptroller General of the United States, or their duly authorized representatives access to the program and fiscal records required to be maintained for each program. (20 USC 1232c(a); 45 CFR 174.19(e), 45 CFR 175.19(d), 45 CFR 176.19(d), 45 CFR 177.612(d) and 45 CFR 190.85(a)). Further, section 168.12(b)(2) of the General Provisions Regulations relating to student assistance programs requires that the institution provide the Assistant Inspector General for Audit (formerly the Director of the HEW Audit Agency) or the Commissioner with access to the records of the individual or firm conducting program audits. (45 CFR 168.12(b)(2)). See also section 190.83(b) of the BEOG regulations 45 CFR 190.83(b). The Inspector General is a duly authorized representative of the Secretary for purposes of providing access to records under the above regulations.

Because your institution failed to provide us access to your records, we have been unable to conduct an audit or to obtain records for review, and thus cannot determine whether your institution is properly managing the student aid programs, accounting for program funds, or is supplying accurate information to the Office of Education.

This emergency action is also based on your institution's failure to submit non-Federal audits of its participation in the NDSL, CWS, and/or SEOG Program for the period from July 1, 1976 through June 30, 1978. Audits covering this period were to be submitted by December 31, 1978. Your institution's failure to submit these non-Federal audits violates the terms of agreement for the administration of the programs which your institution signed with the Commissioner of Education and the following program regulations: 45 CFR 174.19(g)(NDSL), 45 CFR 175.19 (e)(CWS) and 45 CFR 176.19(e)(SEOG). These regulations require that all of your institution's transactions involving the NDSL, CWS, and SEOG funds shall be audited by the institution or at the institution's direction. The

audit must determine, at a minimum, the fiscal integrity of financial transactions and reports and whether such transactions are in compliance with applicable laws and regulations. Furthermore, the audit must be performed in accordance with the DHEW "Audit Guide" (July 1978) for student financial aid programs. The regulations also specify that such audits shall be carried out at least once every two years.

A copy of the Part 168 regulations under which this action is being taken is enclosed. Should you have any questions with respect to this action, please contact Richard Hastings or Ronald Lipton at (202) 245-9880, or write to them at:

P.O. Box 23838
L'Enfant Plaza Station
Washington, D. C. 20024

Sincerely,

Thomas A. Butts
Acting Deputy Commissioner for
Student Financial Assistance

Enclosure

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C.

30 [illegible] 1980

Yeshiva Beth Shearim-
Mishne Halachoth Gedoloth Inst.
5306 16th Avenue
Brooklyn, NY 11204

Dear President:

This is to inform you that in accordance with the procedures for emergency action set forth in the Limitation, Suspension and Termination regulations, Subpart H of the General Provisions regulations relating to student assistance programs, 45 CFR 168.74, the United States Commissioner of Education will withhold funds from your institution and its students under the following programs: Basic Educational Opportunity Grant (BEOG), Supplemental Educational Opportunity Grant (SEOG), National Direct Student Loan (NDSL), College Work-Study (CWS), and Guaranteed Student Loan (GSL). Furthermore, the Commissioner is removing the authority of your institution to obligate funds under those programs. This emergency action does not affect the rights and responsibilities of your institution or any lender or student based on your institution's prior participation in the aforementioned programs.

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Because your institution failed to provide us access to your records, we have been unable to conduct an audit or to obtain records for review, and thus cannot determine whether your institution is properly managing the student aid programs, accounting for program funds, or is supplying accurate information to the Office of Education.

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audit must determine, at a minimum, the fiscal integrity of financial transactions and reports and whether such transactions are in compliance with applicable laws and regulations. Furthermore, the audit must be performed in accordance with the DHEW "Audit Guide" (July 1978) for student financial aid programs. The regulations also specify that such audits shall be carried out at least once every two years.

A copy of the Part 168 regulations under which this action is being taken is enclosed. Should you have any questions with respect to this action, please contact Richard Hastings or Ronald Lipton at (202) 245-9880, or write to them at:

P.O. Box 23838
L'Enfant Plaza Station
Washington, D. C. 20024

Sincerely,

Thomas A. Butts
Acting Deputy Commissioner for
Student Financial Assistance

Enclosure

Thomas A. Butts
Acting Deputy Commissioner for
Student Financial Assistance

January 31, 1980

Chief, Participation Control Branch,
Division of Certification & Program Review

Emergency Action Proceedings Against Eight (8) New York
Rabbinical Institutions

The Participation Control Branch, on January 30, 1980, sent letters imposing an emergency action against eight New York City institutions involved in the religious training of Jewish students. The Branch also requested on January 30, that DFAPS remove the authority of these institutions to draw any further funds, effective immediately.

These actions will withhold funds from these schools and their students, and will remove the authority of these institutions to obligate funds under BSFA programs.

The grounds upon which these actions are being based are: the institutions

- have refused to turn over student financial assistance records in violation of a subpoena duces tecum issued by the Office of Inspector General (OIG);
- have refused to allow the DHEW auditors to audit their administration of BSFA programs;
- have refused to allow the OIG to interview their students.

Ronald D. Lipton

RLIPTON:mj:1/31/80
DCPR

Millions in U.S. Aid Cut Off For 8 Jewish Schools in N.Y.

By LEWIS M. HELM
[illegible]

Eight Jewish schools in New York have had millions of dollars in education aid terminated quietly by the Department of Health and Human Services after a massive investigation into possible fraud.

No announcement is planned about pending criminal prosecutions until after the presidential election on November 4.

This decision was reached by Secretary Patricia Roberts Harris.

An earlier decision also was made not to announce the initial aid termination this year shortly before the Democratic primary election in New York state. President Carter was competing there for Jewish votes with Senator Edward M. Kennedy.

No part of the investigation, aid termination and possible criminal prosecution had been revealed before this article.

The aid was first suspended for 30 days on January 30, in a letter from the deputy assistant secretary for financial assistance, Thomas A. Butts. This was followed on February 27 with a final "intent to terminate" letter.

Butts' letter invoked his office's suspension authority to act because of "the gravity of information" obtained.

Negotiations continued under the HHS inspector general's office after the reorganization that created HHS and the Department of Education from HEW. Files also were kept by the HHS inspector general, even though the program went to Education.

Federal Times learned that the IG files contain copies of falsified documents from hundreds of students who applied for millions of dollars in aid over the years under the government's Basic Educational Opportunity Grants program.

College students whose parents can show minimal assets and income are entitled to payment for up to half of their college costs by the federal government under the grants program. Payments run from $200 to $1800 a year.

The grants should apply to only college students. HHS files, however, show that the eight Jewish schools processed applications from non-college students with false names and false social security numbers.

The schools' addresses were listed as those of the students seeking the aid.

HHS processed the applications and returned approvals to the students at the schools' addresses. The schools then billed the government for the amount approved.

President Carter is counting heavily on the Jewish vote in New York City to win the state against Ronald Reagan. The HHS political leadership under Secretary Harris fears that the publicity would cause enough concern among Jewish voters to throw the state into the Reagan column. Therefore, they decided against a news release about the termination of aid last spring, although the letters of termination are public documents.

More recently, the HHS acting inspector general, Richard B. Lowe III, has personally taken charge of the case. The investigation has been going on for 18 months.

Since last spring Lowe's office has been negotiating with the schools about possible guilty pleas to the charges and about possible restitution of the funds.

Schools receiving the termination letters were.

Be'er Shmuel Talmudical Academy, 1363 50th Street, Brooklyn.

United Talmudical Academy, 82 Lee Avenue, Brooklyn.

OHR Yisroel Rabbinical College, 6020 Thornton Place, Forest Hills.

Rabbinical College of Sanz, 1420 50th Street, Brooklyn.

Yeshiva F. Shearim-Misbore Halachoth Gedoloth Institute, 5304 16th Street, Brooklyn.

Rabbinical Seminary of New Square, 13 Roosevelt Road, New Square.

Basis Yaakov Seminary of Brooklyn, 1362 49th Street, Brooklyn.

Rabbinical College of Tash, 144 Wilson Street, Brooklyn.

FEDERAL TIMES OCTOBER 20, 1980

BEST COPY AVAILABLE

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[redacted]

12 [illegible]

TO : OSFA Division Directors
Richard Rowe, Director, DEAE
William Yancey, Chief, DHHS
F Federal Assistance Financing System

FROM : Acting Deputy Assistant Secretary for
Student Financial Assistance

SUBJECT: Department of Justice Request Regarding
Rabbinical Schools

Attached is a letter dated February 2, 1981, from the Criminal Division, U.S. Department of Justice, regarding an investigation of Rabbinical Schools. In the letter, the Department of Justice requests that the Department of Education pull and preserve all the records in Appendix A relating to the 53 schools listed in Appendix B.

Please take the necessary action required to comply with this request.

If you have any questions regarding this matter, please contact Arthur Sinai, Acting Assistant Inspector General for Investigations.

S/ Richard A. Hastings
James W. Moore for

Attachments

[redacted]

FILE COPY

OFFICE	SURNAME	DATE	OFFICE	SURNAME	DATE	OFFICE	SURNAME	DATE
PCA	R.D. [illegible]							
DePR	[illegible]	4/1						

U.S. DEPARTMENT OF EDUCATION

MEMORANDUM

OFFICE OF INSPECTOR GENERAL

2/1

TO : Thomas A. Butts
Deputy Assistant Secretary for
Student Financial Assistance

DATE: FEB 6 1981

FROM : John C.
John C. [illegible]
Acting Inspector General

2/12 Pam –
See me p
D

SUBJECT: Department of Justice Request
Regarding Rabbinical Schools

Attached is a letter dated February 2, 1981, from the Criminal Division, U.S. Department of Justice, regarding the Rabbinical School investigation. In the letter the Department of Justice requests that the Department of Education pull and preserve all the records in Appendix A relating to the 53 schools listed in Appendix B. Please take the necessary action required to comply with this request.

If you have any questions regarding this matter, please contact Arthur Sinai, Acting Assistant Inspector General for Investigations.

Attachment

FEB 10 10 26 AM '81
DEPUTY [illegible]
STUDENT

U.S. Department of Justice

Washington, D.C. 20530

→ SINA. 2/4

JAH:BLW:MHF:ma
46-16-1716

2 FEB 1981

Mr. John C. Yazurlo
Acting Inspector General
Department of Education
Post Office Box 23458
L'Enfant Plaza Station
Washington, D.C. 20024

Re: Rabbinical School: Hasidim

Dear Mr. Yazurlo:

On January 8, 1981, your office referred the above-captioned matter to us for investigation and possible prosecution. This matter arose as a result of a computer analysis of proprietary schools which disclosed that the Basic Education Opportunity Grants Program (BEOG) applications from students in approximately fifty Rabbinical Schools displayed discrepancies with Social Security Administration records. Initially, the Special Assignments Division of the Inspector General's Office of Health and Human Services (HHS) was assigned to handle the matter. They chose eight schools originally to concentrate upon, served administrative subpoenas on those eight, and pulled the relevant government records on them.

At our meeting on January 8, 1981, we decided that one of the first necessary steps in this investigation was to determine the basis for the choice of the eight schools, and to decide whether the original basis was appropriate for prosecutive purposes. We have found out that the original schools were chosen without regard to prosecution, but instead to get a random sample considering size, location, and amounts of money involved. We also discovered that the routine record destruction is rapid with these records, and many are scheduled for destruction this year.

In light of the above facts, it is imperative to pull and preserve the records from all the schools involved immediately. We are aware of the manpower problems involved with this project, and we would not ask for production of the documents if we did not believe that it was essential to this investigation and to any possible future prosecution.

Accordingly, we hereby request production of all documents required by custom, regulation or law to be filed with or kept by the government concerning BEOG programs including those in

Appendix A, for the years 1977 - 1981, for the schools listed in Appendix B. Due to the fact that some of the documents are scheduled for destruction soon, please put an immediate freeze upon all documents while the first ones are being pulled.

We appreciate your cooperation in this matter.

Sincerely,

Jo Ann Harris
Chief, Fraud Section
Criminal Division

By: Mikal H. Frey
Mikal H. Frey
Attorney

Enclosures

JAH:BLW:MHF:ma
46-16-1716

2 FEB 1981

Mr. John C. Yazurlo
Acting Inspector General
Department of Education
Post Office Box 23458
L'Enfant Plaza Station
Washington, D.C. 20024

Re: Rabbinical School: Hasidim

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Accordingly, we hereby request production of all documents required by custom, regulation or law to be filed with or kept by the government concerning BEOG programs including those in

Appendix A, for the years 1977 - 1981, for the schools listed in Appendix B. Due to the fact that some of the documents are scheduled for destruction soon, please put an immediate freeze upon all documents while the first ones are being pulled.

We appreciate your cooperation in this matter.

Sincerely,

Jo Ann Harris
Chief, Fraud Section
Criminal Division

By:
Mikal M. Frey
Attorney

Enclosures

APPENDIX A

With respect to the schools in Appendix B, the following records from 1977 - 1981:

1. All correspondence files or working files whether open or closed.

2. All applications for participation in Basic Education Opportunity Grants Program (BEOG).

3. Notice of eligibility to participate in Federal student aid programs issued by the United States Office of Education, Division of Eligibility and Agency Evaluation.

4. Executed copy of the terms of Agreement covering Institution Participation in Federal Student Aid Program.

5. Office of Education Program Reports.

6. Audit Reports or Program Review Reports.

7. Department Federal Assistance Quarterly Reports (DFAFS #27).

8. Grantees Monthly Cash Requests to the Departmental Federal Assistance Financing System (DFAFS).

9. All SERS.

10. Institutional Progress Reports for BEOG Grants (DE Form 255-3).

11. Student Validation Roster.

12. Authorization Letter (Annual) for BEOG funding.

13. BEOG Applications from the students.

~~BOX F~~ ~~HISTORY RABBINICAL SCHOOLS~~ APP)DIX B

~~This box contains original DEAE files.~~ ~~They are identified by numbers 1 through 55.~~

1. Yeshiva Beth Hillel of Krasna
2a. Central Yeshiva Beth Joseph Rabbinical Seminary
2b. Beth Joseph Rabbinical Seminary
3. Rabbinical Seminary Beth Yitzchok D. Spinka
4. Rabbinical College of Queens
5. Rabbinical Seminary M'Kor Chaim
6. Hadar Hatorah Rabbinical Seminary
7. Beth Hamedash Shaarei Yosher Institute
8. Associated Beth Rivkah Schools
9. United Talmudical Academy
10. Rabbinical College Beth Shraga
11. Yeshiva Chofetz Chaim of Radun
12. Bais Yaakov Seminary of Brooklyn
13. Yeshivath Zichron Moshe
14. Yeshiva of Nitra Rabbinical College
15. Ohr Yisroel Rabbinical College
16. Yeshiva Kibbutz Tashbar
17. Rabbinical Seminary Adas Yereim
18. Rabbinical Seminary of Munkacs
19. Ayelet Hashacar Teachers Seminary
21. Belzer Yeshiva - Machzikei Torah Seminary
22. Beth Medrash Emek Halacha
23. Long Island Seminary of Jewish Studies for Women
24. Rabbinical Seminary of New Square
25. Sara Schenirer Teachers Seminary
26. Yeshiva Karlin Stolin Beth Aron
27. Derech Ayson Rabbinical Seminary
28. Educational Institute Oholei Torah
29. Rika Breuer Teachers Seminary for Women
30. Yeshivath Viznitz School
31. Rabbinical College of Sanz
32. Ohel Shmuel Yeshiva
33. Be'Er Shmuel Talmudical Academy
34. Beth Jacob Hebrew Teachers College
35. Central Yeshiva Tomchei Tmimim Lubavitz
36. Mesivtha Tifereth Jerusalem of America
37. Mesivta Torah Vodaath Rabbinical Seminary
38. Mirrer Yeshiva Central Institute
39. Rabbinical College of the Bobover Yeshiva Bnei Zion, Inc.
40. Rabbinical College Ch'San Sofer of NY
41. Rabbinical Academy - Mesivta Rabbi Chaim Berlin
42. Rabbinical Seminary of America
43. Rabbinical College of Kamenitz Yeshiva
44. Yeshivat Beth Shearin Rabbinical Institute
45. Ohr Hameir Theological Seminary
46. Rabbinical Seminary Ohr Hachaim of Tash
47. Sh'Or Yoshuv Institute, Inc.
48. Machzikei Hadath Rabbinical College
49. Yeshiva University
50. Grus Girls Seminary
51. Kehilath Yakov Rabbinical Seminary
52. Mesivta of Eastern Parkway Rabbinical Seminary
53. Rabbinical College of Long Island
54. Yeshivat Mikdash Melech
55. Yeshiva Nachlas Haleviyim

56. BETH HATALMUD RABBINICAL COLLEGE

* YESHIVA BETH SHEARIN - MISHNE HALACOTH GEDOLOTH

* MAYBE SAME AS # 44, ~~[illegible]~~

57. TASH RABBINICAL SEMINARY OR RABBINCAL COLLEGE OF TASH

U.S. DEPARTMENT OF EDUCATION
MEMORANDUM

FEB 12 '81

TO : OSFA Division Directors
Richard Rowe, Director, DEAE
William Yancey, Chief, DHHS
Federal Assistance Financing System

FROM : Acting Deputy Assistant Secretary for
Student Financial Assistance

SUBJECT: Department of Justice Request Regarding
Rabbinical Schools

Attached is a letter dated February 2, 1981, from the Criminal Division, U.S. Department of Justice, regarding an investigation of Rabbinical Schools. In the letter, the Department of Justice requests that the Department of Education pull and preserve all the records in Appendix A relating to the 57 schools listed in Appendix B.

Please take the necessary action required to comply with this request.

If you have any questions regarding this matter, please contact Arthur Sinai, Acting Assistant Inspector General for Investigations.

for James W. Moore

Attachments

→ S. [illegible] 2/4

JAH:BLW:MHF:ma
46-16-1716

Washington, D.C. 20530

2 FEB 1981

Mr. John C. Yazurlo
Acting Inspector General
Department of Education
Post Office Box 23458
L'Enfant Plaza Station
Washington, D.C. 20024

Re: Rabbinical School: Hasidim

Dear Mr. Yazurlo:

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Accordingly, we hereby request production of all documents required by custom, regulation or law to be filed with or kept by the government concerning BEOG programs including those in

BEST COPY AVAILABLE

Appendix A, for the years 1977 - 1981, for the schools listed in Appendix B. Due to the fact that some of the documents are scheduled for destruction soon, please put an immediate freeze upon all documents while the first ones are being pulled.

We appreciate your cooperation in this matter.

Sincerely,

Jo Ann Harris
Chief, Fraud Section
Criminal Division

By:
Mikal H. Frey
Attorney

Enclosures

APPENDIX A

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4. Executed copy of the terms of Agreement covering Institution Participation in Federal Student Aid Program.

5. Office of Education Program Reports.

6. Audit Reports or Program Review Reports.

7. Department Federal Assistance Quarterly Reports (DFAFS #27).

8. Grantees Monthly Cash Requests to the Departmental Federal Assistance Financing System (DFAFS).

9. All SERS.

10. Institutional Progress Reports for BEOG Grants (DE Form 255-3).

11. Student Validation Roster.

12. Authorization Letter (Annual) for BEOG funding.

13. BEOG Applications from the students.

APPENDIX D

~~This box~~ ~~[illegible]tains original [illegible] files~~. [illegible] ~~indexed by numbers 1 through 55~~.

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2a. Central Yeshiva Beth Joseph Rabbinical Seminary
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3. Rabbinical Seminary Beth Yitschok D. SPINKA
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9. United Talmudical Academy
10. Rabbinical College Beth Shraga
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50. Orum Girls Seminary
51. Kehilath Yakov Rabbinical Seminary
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53. Rabbinical College of Long Island
54. Yeshivat Mikdash Melech
55. Yeshiva Nachlas Haleviyim

56. BETH HATALMUD RABBINICAL COLLEGE

* YESHIVA BETH SHEARIM - MISHNE HALACHOTH GEDOLOTH
& MARK SAME AS # 44, ~~[illegible]~~

57. TASH RABBINICAL SEMINARY OR RABBINCAL COLLEGE OF TASH

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Source - [illegible]
Run Date - 07-09-79
As of 07-05-79

RABBINICAL SCHOOLS

ool	Address Brooklyn		Total Authorized	[illegible]
Beth Hillel of Krasna	1366 48th St., N.Y., NY	11219	259,969.00	222,579.00
eshiva Beth Joseph	1427 49th St., NY, NY	11219	220,251.00	217,950.00
al Sem Beth Yitzchok D'Spinka	192 Keap St, Brooklyn, NY	11211	152,224.00	129,292.00
~~[illegible]~~	~~[illegible] Fraser St, [illegible]~~	~~[illegible]~~	~~[illegible]~~	~~[illegible]~~
of Queens	141-20 Grand Central Pkwy Jamaica, NY	11435	273,757.00	224,787.00
Mkor Chaim	1571 55th St Brooklyn, NY	11219	271,728.00	254,262.00
Torah Rabb. Sem.	824 Eastern Pkwy, Brooklyn, NY	11213	617,801.00	485,951.00
Yeshivath Sharei Yosher Inst.	4102-10 16th Ave. Brklyn., NY	11204	996,129.00	815,095.00
Rivkah Schools	310 Crown St. Brooklyn, NY	11226	421,904.00	351,571.00
almudical Acad.	82 Lee Ave Brooklyn, NY	11211	3,437,156.00	2,960,946.00
age	Saddle River POB 412 Monsey, NY	10952	168,890.00	157,640.00
tot of ~~[illegible]~~	37 W. 65th St. NY, NY	10023	300,465.00	218,332.00
z Chaim Raduno	24 Highview Rd Tallman, NY	10901	302,530.00	257,225.00
r Seminary	1366-49th St Brooklyn, NY	11219	442,612.00	214,436.00
Zichron Moshe	South Fallsburg, NY	12779	365,800.00	327,255.00
hitra Rabb. Coll	194 Division Ave, Brooklyn, NY	11211	594,006.00	512,418.00
el Rabb. College	66-20 Thornton Place, Forest Hills	11375	211,233.00	173,563.0
bovy Tosher	26 Vieland, Monsey, NY	10952	177,961.00	179,125.00
Adas Yereim	185 Wilson St., Brooklyn, NY,	11211	366,467.00	311,449.00
of Nitra	1371-42nd St., Brooklyn, NY	11219	1,038,500.00	619,875.00
ma Rabb. College	8127-82nd St., Brooklyn, NY	11214	278,160.00	239,805.0
shechar Teachers Sem	707 Bolton Rd. Far Rockaway NY	11691	183,071.00	147,583.0
-Machzikei Torah	630 Bedford Ave, Brooklyn, NY	11211	670,315.00	557,168.00
Emes Halacha	1763-63rd St, Brooklyn, NY	11204	129,410.00	113,657.00
m. of Jewish Studie	444 Beach 6th St Far Rockaway, NY	11691	137,705.00	121,165.00
ew Square	25 Roosevelt Ave, New Square, NY	10977	1,426,944.00	1,186,475.00
r Seminary	4622-14th Ave, Brooklyn, NY	11219	203,513.00	179,267.00
Stolin of Beth Aron	1818-54th St, Brooklyn, NY	11204	202,699.00	177,810.00
Rabb. Sem	1126 Virginia St, Far Rockaway, NY	11691	433,948.00	364,624.00
Oholei Torah	1267 Eastern Pkwy Brooklyn, NY	11213	512,167.00	437,151.00
Teachers Sem	45-183 Bennett Ave., NY, NY	10033	119,750.00	107,641.00
School	85 Phyllis Terrace POB 946 Monsey, NY	10952	406,946.00	300,719.00
of Sanz	1412-1420 56th St NY, NY	11219	578,306.00	457,007.00
ma	Bway & Harriman Rd. Irvington, NY	10533	208,507.00	169,454.00

(cont.)

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School	Address	Total Authorized	Total [illegible]
Shmuel Talmudical Academy	1363 - 50th St., Brooklyn, NY 11219	877,220.00	742,610.00
h Jacob Hebrew Teachers College	4419 - 15th Ave., Brooklyn, NY 11204	643,740.00	560,488.00
ral Yeshiva Tomchei Tmimim Lubavitz	941 - 953 Ocean Pkwy Brooklyn, NY 11230	1,159,983.00	1,045,225.00
ivtha Tiferet Jerusalem of Amer.	141-7 E Broadway NY, NY 10002	362,411.00	232,396.00
ivta Torah Vodaath Rab. Sem.	425 E. 9th St., Brooklyn, NY 11218	502,670.00	455,708.00
rer Yeshiva Central Institute	1795 Ocean P'kwy Brooklyn NY 11223 ?	984,069.00	989,634.00
hiva Beth Zion Inc.	1533 48th St., Brooklyn, NY 11219	901,658.00	722,680.00
am Sofer of New York	1876 50th St., Brooklyn, NY 11204	519,108.00	457,303.00
ivta Rabbi Chaim Berlin	1593 Coney Island Ave., Brooklyn, NY 11230	337,977.00	312,758.00
mical Seminary of America	92-15 69th Ave., Forest Hills, NY 11375	225,401.00	261,871.00
manite Yeshiva of America	1650 56th St., Brooklyn, NY 11204	308,329.00	266,970.00
Shiva Beth Shearim Nissan	5306 16th Ave, Brooklyn, NY 11204	511,145.00	415,122.00
42 - HANCOCK THEOLOGICAL SEM.	3 BLVD, NEW ROCHELLE		
A EPISCOPAL SEMINARY	NY WILSON ST BKLYN, NY		
KEHAL TIFERETH [illegible]			
	*Total	23,508,791.00	19,954,146.00

Difference 3,554,645.00

*Covers 1976 to date

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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

[illegible] 25 [illegible]

JAN 3[illegible]

MEMORANDUM

TO : Edward Elmendorf
Assistant Secretary
for Postsecondary Education

FROM : Arthur Sinai
Assistant Inspector General
for Investigation

SUBJECT : Review of Documents

As you may know, Rabbi Abraham Tenenbaum is the consultant for several schools in the New York City area. The Justice Department and the Office of Inspector General (OIG) are currently investigating allegations that Rabbi Tenenbaum may be defrauding the Department of Education (ED) by obtaining eligibility through the three-institutional-letter method for non-accredited institutions. Our investigation is disclosing serious irregularities regarding these schools. Based upon what we have found we recommend that OSFA should thoroughly review all eligibility and certification applications submitted by Rabbi Tenenbaum on behalf of his client institutions.

In order to protect the Government's interests, I suggest that the Eligibility and Agency Evaluation Staff and the Participation Certification Branch independently verify all representations on applications submitted by Rabbi Tenenbaum. For example, if an application states that the school has ninety students enrolled, OSFA should require a list of the student names, home addresses, SSNs, telephone numbers and dates of birth. If the application states that six teachers are employed, ED should require their names, addresses, telephone numbers, hours per week teaching and subject matter taught.

One item of special interest is to assure that the State approval to operate a postsecondary educational institution meets ED regulatory requirements for eligibility. The Department should request additional information from the schools who are allegedly

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Page 2

accepting transfer credits from Rabbi Tenenbaum's client schools. This information should include the student's name, SSN, date of birth, date enrolled, number of credits and subjects accepted, number of credits for which enrolled, length of matriculation, and academic progress.

All documents submitted by Rabbi Tenenbaum should be reviewed to ensure they are signed and dated by a person and do not have just a corporate stamp. Individual pages should all be date stamped. If the documents must be separated for processing or filing, a record should be made stating where the pages are filed so the document may be reassembled if needed. It should also be noted as to how the document was received by ED, i.e. hand delivered, mailed, etc. If oral representations are made about documents, either in person or by telephone, a note to the file should be prepared setting forth the substance of the conversation.

Please contact me on 245-0452 if you need any additional information.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FEB 16 1983

TO : Edward M. Elmendorf
Assistant Secretary for
Postsecondary Education

FROM : Richard J. Rowe, Director
Eligibility and Agency Evaluation Staff

SUBJECT: EAES Portion of Reply to Inspector General Memo Dated January 25, 1983

Following are the responses from the Eligibility and Agency Evaluation Staff (EAES) to certain appropriate portions of the inquiry from Mr. Arthur Sinai, Assistant Inspector General, in the memo cited above. Responses to other portions of the memo should more properly be drafted by the Office of Student Financial Assistance.

* * * * * * * * * * * * * * * *

1. We have been closely aware of Rabbi Tenebaum's activities for many years. Most recently, there was an exchange of correspondence with him in connection with his allegations of mistreatment by this Staff in October-November 1982.

2. Since early 1982, the EAES has been increasingly restrictive in revising the requirements for 3IT compliance. Revised 3IT letters were approved and adopted in the Spring of 1982 as a result of earlier problem cases cited by the IG office in Chicago.

3. EAES has no basis for independently verifying student data, which is a matter for OSFA administrators. However, EAES can attempt to collect the information cited regarding teachers' names, addresses, telephone numbers, hours per week teaching, and subject matter taught.

4. The matter of State approval to operate a postsecondary educational institution has been settled with respect to the Rabbinical schools in New York State. Reference is made to the attached copy of a letter on this subject dated January 3, 1980, from Joan Bernstein in the HEW Office of General Counsel. EAES is willing to request that each Rabbinical school claiming exemption from New York State Education Department requirements provide us with copies of their authorization by the State of New York.

5. EAES has requested additional information from the accredited, receiving schools which accept transfer students from Rabbinical and other unaccredited institutions. In the case of the Tenebaum-represented institutions, in the past we have asked for student name and date enrolled. We can also request the student's social security number, date of birth, number of credits and subjects accepted, number of credits for which enrolled, enrollment period, and statement of academic progress.

FILE COPY

OFFICE	SURNAME	DATE	OFFICE	SURNAME	DATE	OFFICE	SURNAME	DATE
IES	Rowe	2-23						
IES	[illegible]	2/23						

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6. EAES has already taken steps to assure that all documents received from Rabbi Tenenbaum, and others in similar circumstances, are cited as to how they are received—by mail or by hand delivery. In addition, we are now date stamping applications and other documents received on each page, in the upper right hand corner. Oral statements made by the Rabbi or his school's representatives are noted in the respective school files.

- - - - - - - - - - - - - - -

We believe that past steps already taken by EAES, combined with additional new steps taken in compliance with your request, will meet your requirements.

Pursuant to our earlier discussions on this subject, EAES would appreciate it if the Inspector General would review this entire matter with appropriate Justice Department officials. As a matter of record, it would be helpful if we could receive from the Justice Department a statement reflecting the non-discriminatory nature of EAES administration of the 3IC procedure. Further, it would be useful if the statement could confirm that EAES staff would be protected in court, legally and otherwise, in the event of a lawsuit by Rabbi Tenenbaum or the schools he represents regarding any allegation of special, unfair treatment of his institutions.

Attachments

cc: CEU
EAES
READING

LROSS?djm

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Stephen D. Altman, Civil Division
P. O. Box 261, Ben Franklin Station
Washington, D.C. 20044
Ext. (202) 724-6780

RSA:rms
~~46-16-1716~~
116-16-2013 (4-5-84)

February 2, 1984

Rabbi Abraham Tenenbaum
325 Grandview Avenue
Monsey, New York 10952

Re: United States v. Be'er Shmuel, et al.

Dear Rabbi Tenenbaum:

In your capacity as a student financial aid consultant to the Be'er Shmuel Talmudical Academy ("Be'er Shmuel") you and/or your consulting firm, "Rabbi Abraham Tenenbaum and Associates," submitted documents to the Department of Education to obtain funds for Be'er Shmuel. These documents stated that certain students were in fact attending Be'er Shmuel and/or eligible to participate in the Basic Educational Opportunity Grant ("BEOG"), Supplemental Educational Opportunity Grant ("SEOG") and/or College Work Study ("CWS") programs when, in fact, these students were fictitious or ineligible. In addition, you submitted documents which falsely stated the names, identities, addresses, and/or Social Security numbers of students and the amount of Be'er Shmuel's expenditures on student financial aid.

The above actions give rise to liability under the False Claims Act, 31 U.S.C. §§ 3729-3731, as well as other causes of action. Accordingly, demand is hereby made upon you for $1,870,280.00 in double damages, and forfeitures. We will file suit in 30 days if you do not contact us and advise us of your willingness to settle this indebtedness. If you would like to discuss the above allegations, please contact me at (202) 724-6780, within that time.

Sincerely,

STEPHEN D. ALTMAN
Assistant Director
Commercial Litigation Branch
Civil Division

Feb. 3, 1984

Julian Tepper, Esq.
Assistant Chief, Civil Div.
U. S. Attorney's Office
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Enclosed is copy of demand letter Mailed to Rabbi Abraham Tenenbaum on Feb. 2, 1984.

Re: D.J. ~~46-16-1716.~~
46-16-2013 (9-5-84)

Stephen Altman
1148, Todd
724-6780

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, MARCH 27, 1984

CIV
202-633-4389

The Department of Justice today filed a civil suit against Rabbi Moshe Horowitz, Be'er Shmuel Talmudical Academy, Congregation and Yeshiva B'er Schmuel, Inc., and Yeshiva Amod Hatorah, Inc., all of New York City, seeking to recover more than $1 million of Department of Education funds that Horowitz and the Academy are alleged to have received improperly.

The complaint, filed in U.S. District Court in Brooklyn, alleges that Horowitz made false statements to obtain Basic Educational Opportunity Grant, Supplemental Educational Opportunity Grant, and College Work Study funds from 1976 through February 1980.

Be'er Shmuel Academy falsely stated that it was a post-secondary educational institution and that its students received credit at other accredited colleges, according to the complaint. Also, grant money was received for nonexistent or ineligible students, the complaint alleged.

Horowitz is under criminal indictment over the matter and is currently a fugitive.

Congregation and Yeshiva B'er Schmuel, Inc., and Yeshiva Amod Hatorah, Inc., are believed to be sham corporations to which [illegible] deposited the proceeds of the illegally obtained funds, according to the civil complaint.

(MORE)

The False Claims Act, and its statute of limitations, permits the government to seek recovery of double the more than $600,000 of funds granted from 1978 to 1980. The government also seeks return of grant money due to breach of contract from 1976 to 1980. The total sought by the suit is $1.6 million, including damages.

# # # #

Department of Education)
Office of Student Financial Assistance)

Represented By:
Stephen Kraut
Ronald Lipton
P.O. Box 23800
L'Enfant Plaza Station
Washington, DC 20024

v.

Bais Yaakov of Brooklyn Seminary)
Be'er Shmuel Talmudic Academy)
Ohr Yisroel Rabbinical College)
Rabbincal College of Sanz)
United Talmudic Academy)
Yeshiva Beth Shearim Mishne)
Halachoth Gedoloth Institute)
Rabbinical Seminary of New Square)
Thaber Yeshiva)

Represented By:
Charles E. Clayman
Dawson, Kimelman &
Clayman
305 Madison Avenue
New York, New York
10017

Submitted by:
Ronald D. Lipton
Ronald D. Lipton
P.O. Box 23800
L'Enfant Plaza Station
Washington, DC 20024

Ronald D. Lipton
Stephen Kraut

Department of Education)
Office of Student Financial Assistance)

Represented By: Stephen Kraut
Ronald Lipton
P.O. Box 23800
L'Enfant Plaza Station
Washington, DC 20024

v.

Bais Yaakov of Brooklyn Seminary)
Be'er Shmuel Talmudic Academy)
Ohr Yisroel Rabbinical College)
Rabbinical College of Sanz)
United Talmudic Academy)
Yeshiva Beth Shear'm Mishna)
Halachoth Gedolath Institute)
Rabbinical Seminary of New Square)
Tasher Yeshiva)

Represented By: Charles E. Clayman
Dawson, Kimelman &
Clayman
305 Madison Avenue
New York, New York
10017

The Department of Education (formerly the Office of Education, Department of Health, Education and Welfare) initiated termination actions (under 45 CFR 168, Subpart E) against the 8 captioned institutions on February 27, 1980. If the institutions are terminated, they would be ineligible to participate in Title IV, Higher Education Act (HEA) student assistance programs for a minimum of 18 months from the effective date of their termination (45 CFR 168.82). After 18 months have lapsed, the institutions may reapply to the Secretary of Education to participate in those programs.

1.A Each of the eight captioned institutions has refused to provide representatives of the Commissioner of Education and the Secretary of Health, Education, and Welfare with access to program and fiscal records the institutions allegedly maintained under the Basic Educational Opportunity Grant (BEOG), Supplemental Educational Opportunity Grant (SEOG), College Work-Study (CWS) and National Direct Student Loan (NDSL) programs. Each of the captioned schools refused to allow the Department of Health, Education and Welfare auditors to audit its records, each has refused to provide records and documents, and each has refused to allow its students to be interviewed.

B. Testimony of Witnesses and Introduction of Exhibits (see attached pages).

C. Section 434(a) of the General Education Provisions Act, as well as section 174.19 of the NDSL program regulations, 45 CFR 174.19, section 175.19 of the CWS program regulations, 45 CFR 175.19, section 176.19 of the Supplemental Educational Opportunity Grant program regulations, 45 CFR 176.19, and sections 190.82 and 190.85 of the BEOG program regulations, 45 CFR 190.82 and 190.85, require that an institution participating in that program keep program and fiscal records which reflect the receipt and disbursement of federal funds. Those sections also require that the institution give the Secretary of HEW or the Comptroller General of the United States, or their duly authorized representatives, access to such program and fiscal records. Further, section 168.12 of the General Provisions Regulations Relating

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to Student Financial Assistance Programs, 45 CFR 168.12, requires that institutions provide the Assistant Inspector-General for Audit (formerly the Director of the HEW Audit Agency), or the Commissioner, with access to the records of the individual or firm conducting required program audits. See also 45 CFR 190.83 of the BEOG program regulations. The Inspector General is a duly authorized representative of the Secretary for the purpose of providing access to records under the above regulations.

2.A Each of the above eight institutions failed to comply with a subpoena *duces tecum* issued by the Inspector-General of the Department of Health, Education and Welfare on October 18, 1979.

B. Testimony of Witnesses and Introduction of Exhibits (see attached pages).

C. 42 USC 3525 authorizes the HEW Inspector General to require by subpoena, the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this subchapter.

3.A Four of the captioned institutions, Be'er Shmuel Talmudic Academy, Ohr Yisrael Rabbinical College, Bais Yaakov of Brooklyn Seminary, and Yeshiva Beth Shearim Mishne Halachoth Gedoloth Institute, failed to submit audits covering its participation in the NDSL, CWS, and SEOG program for the period covering July 1, 1976 through June 30, 1978. Audits for this period were to be submitted by December 31, 1978.

B. Testimony of Witnesses and Introduction of Exhibits (see attached pages).

C. Section 174.19 of the NDSL program regulations, 45 CFR 174.19, section 175.19 of the CWS regulations, 45 CFR 175.19, and section 176.19 of the SEOG program regulations, 45 CFR 176.19, each require that the institution audit, or have audited at its direction, all of the institution's transactions in that program. The audit must determine, at a minimum, the fiscal integrity of financial transactions and reports and whether such transactions are in compliance with applicable laws and regulations. Furthermore, the audit must be performed in accordance with the DHEW "Audit Guide" (July 1978) for student financial aid programs. The regulations also specify that such audits shall be carried out at least once every two years.

The estimated length of the Department of Education's presentation, depending on acceptance of proposed stipulations by the respondents' counsel and examination of the Department's witnesses by respondents' counsel, is one or two days. The Department does not anticipate the hearing to take more than one week.

Feb. 3, 1984

Julian Tepper, Esq.
Assistant Chief, Civil Div.
U. S. Attorney's Office
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Enclosed is copy of demand letter Mailed to Rabbi Abraham Tenenbaum on Feb. 2, 1984.

Re: D.J. ~~46-16-1716.~~
46-16-2013 (9-5-84)

Stephen Altman
1148, Todd
724-6780

Stephen D. Altman, Civil Division
P. O. Box 261, Ben Franklin Station
Washington, D.C. 20044
Ext. (202) 724-6780

RSA:rms
~~46-16-1716~~
116-16-2013 (4-5-84)

February 2, 1984

Rabbi Abraham Tenenbaum
325 Grandview Avenue
Monsey, New York 10952

Re: United States v. Be'er Shmuel, et al.

Dear Rabbi Tenenbaum:

In your capacity as a student financial aid consultant to the Be'er Shmuel Talmudical Academy ("Be'er Shmuel") you and/or your consulting firm, "Rabbi Abraham Tenenbaum and Associates," submitted documents to the Department of Education to obtain funds for Be'er Shmuel. These documents stated that certain students were in fact attending Be'er Shmuel and/or eligible to participate in the Basic Educational Opportunity Grant ("BEOG"), Supplemental Educational Opportunity Grant ("SEOG") and/or College Work Study ("CWS") programs when, in fact, these students were fictitious or ineligible. In addition, you submitted documents which falsely stated the names, identities, addresses, and/or Social Security numbers of students and the amount of Be'er Shmuel's expenditures on student financial aid.

The above actions give rise to liability under the False Claims Act, 31 U.S.C. §§ 3729-3731, as well as other causes of action. Accordingly, demand is hereby made upon you for $1,870,280.00 in double damages, and forfeitures. We will file suit in 30 days if you do not contact us and advise us of your willingness to settle this indebtedness. If you would like to discuss the above allegations, please contact me at (202) 724-6780, within that time.

Sincerely,

STEPHEN D. ALTMAN
Assistant Director
Commercial Litigation Branch
Civil Division

Memorandum

RHC:rme
46-16-1716

Tel: 724-7457

Subject

United States v. Be'er Shmuel

Date

Feb. 10, 1986

To

Harold McCullough
DCPR, U.S. Dept. of Education
400 Maryland Ave., S.W.
Room 4629
Regional Office Bldg. 3
Washington, D.C. 20201

From

Ronald H. Clark
U.S. Dept. of Justice
Civil Divison
Commercial Litigation
Branch
Todd Building, Rm. 1150
Washington, D.C.

Enclosed herewith is copy of proceeding before the Honorable Eugene Nickerson on December 27, 1985 on subject case.

cc w/atch.
Steve Altman
Assistant Director

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against- 83 C 172

MOISHE HOROWITZ,

Defendant.

United States Courthouse
Brooklyn, New York

December 27, 1985
9:30 a.m.

B E F O R E:

HONORABLE EUGENE NICKERSON, U.S.D.J.

HOLLY DRISCOLL
OFFICIAL COURT REPORTER

EASTERN DISTRICT COURT REPORTERS
UNITED STATES DISTRICT COURT
225 Cadman Plaza East
Brooklyn, New York 11201
(718) 330-7687

APPEARANCES:

MARK D. RASCH, ESQ.
TRIAL ATTORNEY - DEPT. OF JUSTICE
CRIMINAL DIVISION, FRAUD SECTION
315 9th Street NW
Washington, D.C.

RONALD H. CLARK, ESQ.
TRIAL ATTORNEY - DEPT. OF JUSTICE
CIVIL DIVISION, COMMERCIAL LITIGATION BRANCH
P.O. Box 261
Ben Franklin Station
Washington, D.C. 20044

LAURENCE URGENSON, ESQ.
Attorney for the Defendant

THE CLERK: For sentence, Moishe Horowitz. Please come forward.

MR. URGENSON: Good morning, Your Honor.

THE COURT: Good morning.

MR. RASCH: Good morning, Judge.

THE COURT: Good morning.

THE DEFENDANT: Good morning.

THE COURT: All right.

You have seen the revised presentence report?

MR. URGENSON: I have, Your Honor.

THE COURT: You have been over it?

MR. URGENSON: Yes, we have.

THE COURT: Do you find anything now inaccurate in it.

MR. URGENSON: No, the factual statement is as we agreed to.

THE COURT: Is the defendant ready for sentence?

MR. URGENSON: He is, Your Honor.

THE COURT: Would you like to be heard?

MR. URGENSON: Yes, Your Honor.

THE COURT: Okay. I should say preliminarily I read your memorandum and I read the letters.

MR. URGENSON: Thank you, Your Honor.

Your Honor, I think that this sentencing is unusual in a number of respects and one of them is the fact that we do have a stipulated presentence report in which we presented to the Government well in advance of sentencing what we regarded to be a complete statement of the facts because I wanted my remarks today before the Court not merely to be the exhortation of a defense lawyers on behalf of of his client, but I wanted it to represent a factual statement which had been presented to the Government which they had passed upon and that they agreed was accurate.

And I think that fairly viewed, the statement not only establishes that Rabbi Horowitz is a person who has never before committed any kind of criminal act but also has led a exemplary life, that he was someone who ran a school, whose life was devoted to the education of underprivileged students in his area.

And I think that is supported by the letters and individuals in his community who now in many instances are adults and attribute their success and position in life to the warmth and generousity of Rabbi Horowitz in affording them education which they could not obtain otherwise.

I think it is necessary to present those facts to the Court in order to make sense out of what is a basic anomaly in the case and that is how a man of Rabbi Horowitz' distinction and devotion to community service and high ethical and religious standing could find himself in the position that he is in today standing before the Court to be sentenced on serious criminal charges.

I think the explanation lies in those letters and the fact that he was confronted with a situation in which he had to make the difficult choice of closing his school and depriving his community and those students of an opportunity for education and getting involved in the scheme to the extent that he did.

I think it is important to note that prior to the events which led to the indictment the school was eligible to receive the aid which it received and was receiving on a legal and proper basis and then it was confronted with a situation in which that aid would be deprived and without the benefit of it, the school would have to be closed.

I think that those facts and in addition to that, the fact that Rabbi Horowitz is arranging to make full restitution most respectfully, take the case out of the category where it is necessary to impose a prison sentence and I think the Government understood that in offering to Rabbi Horowitz at one point that he enter into a plea agreement which would include a recommendation of probation and restitution.

He cooperated and I would emphasize that fact which I think is omitted in the presentence report and that is the nature and the extent of Rabbi Horowitz' willingness and desire to make full restitution.

We had several meetings with the Civil Division and Department of Justice. Mr. Clark who representing the Civil Division is here at the sentencing proceeding, in which we asked as to what was the the amount that the Government would seek as full restitution recognizing that a substantial portion of the funds that are referred to in the indictment never went to Rabbi Horowitz and his schools and also representing that there are significant aspects of penalty and interest which are due to the Government.

After discussions with Mr. Clark we entered into an agreement in which the Government proposed that if four hundred sixty thousand dollars were to be paid and raised by the community over a period of time, Rabbi Horowitz would be entitled to a full release of all the claims against him and that they would square the books as far as the Government was concerned.

And we have entered into that agreement and it calls for payments over a period of six years and payment of $50,000 has already been made in Rabbi Horowitz' behalf towards that restitution.

So, I would say that it is a case in which we have an unusual defendant, a defendant who has had a exemplary life, an instance in which his wrongful acts, which are unmistakably wrong, were influenced and caused by an understanding motive and which he stands before the Court willing to make full restitution to the Government and for that reason I would ask that a probationary sentence be imposed.

THE COURT: Did the Government want to say anything?

MR. RASCH: No, Your Honor. I think Mr. Urgenson has fairly and accurately stated what the discussions with the Government have been and the Government's knowledge of the facts in this case.

THE COURT: All right.

Rabbi Horowitz, I read your thing which was attached here. Would you like to say anything else in your own behalf? I would be glad to hear from you.

THE DEFENDANT: Your Honor, the Bible and Talmud say that a judge is a representative of Almighty God on this earth and everyday we turn three times to Almighty God and we admit we sinned and we pray for his forgiveness.

In the same spirit I turn to Your Honor today. I know that I have sinned and done wrong to the United States of America, wonderful country which gave us refuge when we were persecuted and wandering from country to country and we came here and here we started a new life.

And although my purposes were for the good, I realize that this does not excuse it and does not justify it and I was very foolish and I am very sorry and remorseful about it. I would wish to devote my time and strength and energy to raising the funds to make restitution, to right the wrong that I have done.

My wife and children have suffered grievously during these past years of nightmare and I would like to make life for them bearable again.

In conclusion, I would like to say if Your Honor would would ever have the opportunity to observe my relationship to our students, Your Honor would see that this is a relationship like a father to his children and, therefore, the thought of having to close the school and putting them out in the street and failing them and possibly ruining their chances for the future was unbearable to me and that is what led me astray into this foolishness which is not at all according to my nature.

And, therefore, I would like to have the chance to continue my work for the benefit of the community and for the benefit of our students and to make restitution and right the wrong that I have done.

THE COURT: Is there anything in the Talmud that says the ends don't justify the means? Where would I find that?

THE DEFENDANT: Well, I don't know if there is an exact quotation like this but this is the truth and this is the -- it is the spirit of the whole Talmud, that whatever you do last has to be right and even if your purposes are the best and the highest, you must not transgress the law.

THE COURT: Who was it that was asked to

tell the law standing on one leg?

THE DEFENDANT: It was Hillel.

THE COURT: What was his response?

THE DEFENDANT: He said love thy neighbor like thyself. That is the whole basis of the law. Everything else are only details.

THE COURT: Okay. I am going to suspend the imposition sentence and put you on probation for a period of five years. A special condition of probation is to make restitution as provided in the agreement with the Government.

Are there any open counts.

MR. RASCH: Yes, Your Honor, there are. Counts one through forty remain open. Part of the agreement was that the Government would move to dismiss those counts.

THE COURT: That motion is granted.

MR. URGENSON: Thank you.

THE CLERK: The sentence was on Counts 41 and 42 and the probation is concurrent?

THE COURT: Concurrent, yes. All right.

MR. URGENSON: Thank you.

THE COURT: Thank you. I must impose a $50 assessment.

MR. URGENSON: I understand, Your Honor.

THE COURT: That is not discretionary.

THE DEFENDANT: Thank you.

THE COURT: You must never thank a judge. He only does his duty.

MR. URGENSON: Have a good day, Your Honor.

(End of Proceedings.)

*****

U.S. DEPARTMENT OF EDUCATION

MEMORANDUM

6 MAY 1981

TO : Distribution

FROM : Ronald D. Lipton
Chief, Participation Control Branch Ronald D. Lipton

SUBJECT: Termination of the following schools from all Title IV, HEA programs:

Be'er Shmuel Talmudical Academy
1363 50th St.
Brooklyn, NY 11219
1116002733A1

OHR Yisroel Rabbinical College
60-20 Thornton Place
Forest Hills, NY 11374
111214749A1

Rabbinical College of Sanz
1420 50th St.
Brooklyn, NY 11219
1111977906A1

Yeshiva Beth Shearim-
Mishne Halachoth Gedoloth Inst.
5306 16th Avenue
Brooklyn, NY 11204
1112201865A1

Bais Yaakov Seminary of Brooklyn
1362 49th St.
Brooklyn, NY 11219
111223806A1

Rabbinical College of Tash
144 Wilson St.
Brooklyn, NY 11211
1112431416A1

This is to inform you that the subject schools have been terminated from eligibility to participate in all Title IV, HEA programs (BEOG, SEOG, CWS, NDSL, and GSL). The terminations are effective retroactively to March 24, 1980.

The effect of the terminations is stated in 45 CFR 168.80. It ends the schools' eligibility to participate in the Title IV programs, prohibits the schools or the Department of Education from making or increasing financial aid awards, prohibits the schools from making any other new obligations against funds for the Title IV programs, and prohibits further commitments of Federal insurance by the Department of Education under the Guaranteed Student Loan Program for loans to students to attend the schools.

This has been provided to you for your information so that you may take any steps necessary to carry out the termination, including applicable closed school procedures. Please notify anyone not on the distribution list that you feel should be notified. If you have any questions or need additional information, please call me or Howard Fenton at (202) 245-9880.

Distribution

Edward Melady, Acting Assistant Secretary for Postsecondary Education (Designee)
James Moore, Acting Deputy Assistant Secretary for Student Financial Assistance
Richard A. Hastings, Acting Director, DCPR
Carol Forsythe, Chief, PRB, DCPR
William Hassler, Chief, ARB, DCPR
Jeff Raffensperger, Chief, ILCB, DCPR
Arthur Sinai, Acting Assistant Inspector General for Investigations
Harold Wienberg, Director, DPO
Maurice Tansey, Acting Deputy Director, DPO
Gray Crayton, Chief, Basic Grants Branch, DPO
Robert Coates, Chief, Campus Based Branch, DPO
David Kerr, Director, DSDD
Pat Hopson, Director, DTD
Stephen Kraut, OGC
Richard Sonnergren, Acting Deputy Assistant Secretary for Higher and Continuing Education
Richard Rowe, Director, DEAE
William Ward, Director, Division of Financial Management
William D. Yancey, Acting Chief, FAFB, thru
  William Ward, Director, Division of Financial Management
Josue Diaz, Regional Administrator, Region II
Thomas Zaccone, Assisant Regional Administrator, Region II

DEPARTMENT OF EDUCATION

TO : [redacted]
Special Agent
ED/OIG

AUG 20 1984

FROM : Thomas J. Pestka
Division of Certification & Program Review

SUBJECT: Birth Record Verification

Attached are computer reports dated 8/14/84 which reveal the results of our initial birth record verification project. The reports were produced by creating a file containing the 1478 unique SSN's covered by the verification project and matching that file against my Pell/BEOG extract file. We found that 800 verified records and 633 non-verified records matched with the Pell/BEOG extract. We also found that 45 SSN's from the verification project did not match any record on the extract. These must be checked further for keying errors, errors in recording SSN's and other errors.

Our initial results show that Pell (BEOG) Grants were made through 59 schools, in the amount of $2,647,007, to the 633 "students" whose births cannot be verified.

There are two reports for the verified SSN's and two for the non-verified SSN's. Formats of these reports are similar to other reports which have been provided:

- Listing of current SSN, award year, school number sequence
- Listing of matched SSN records (by vendor)

Please call me if you have any questions about these reports.

[redacted]

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OFFICE	SURNAME	DATE	OFFICE	SURNAME	DATE	OFFICE	SURNAME	DATE
		8/20/84						

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DEPARTMENT OF EDUCATION

Alan Klienburd
Trial Atorney
Commercial Litigation Branch
Civil Division
Department of Justice
P.O. Box 261
Ben Franklin Station
Washington, D.C. 20044

Dear Mr. Klienburd:

The birth verification project conducted by Department of Education staff revealed that the births of 148 out of 156 U.T.A. BEOG recipients which we checked could not be verified. As the result of a previous investigation the Department of Education had in its possession a limited number of social security number applications (SS5) for BEOG recipients. Only the BEOG recipients showing New York City as their birth place (SS5) were checked. The New York City birth records for the year of birth shown (SS5) were reviewed.

We attempted to further verify the results of the birth verification project by employing standard skiptracing procedures. Initially we attempted to skiptrace 15 of the non-verified U.T.A. BEOG recipients (with 4 years of BEOG) we were not successful in locating 13 of these individuals. We did get two phone listings which we have not been able to verify. We could not obtain credit reports on any of the 15. We attempted to obtain information from the New York State Department of Motor Vehicles; to date, we have six negative responses and are awaiting responses on the other nine. We called directory assistance for telephone listings in Brooklyn for all 148 non-verified recipients. We were able to obtain 40 listings. We attempted to contact the people with listings on August 24 and 27. We spoke to 4 people who were students at U.T.A. One person had been a teacher at U.T.A. and one woman who said her husband attended U.T.A. We spoke to eight people who said they did not attend U.T.A. and four people who would only identify themselves but would not answer any questions.

None of the birthdates of the people who attended U.T.A. matched the BEOG birthdate on record. The people we talked to said they were older or sounded much older than the BEOG recipient would be.

Attached are copies of our notes of each telephone conversation. In most cases we did not have a chance to ask all of the questions listed. The people we spoke to appeared to be somewhat defensive and we were reluctant to probe too deeply out of concern for causing unnecessary alarm. Generally, if we

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		[illegible]						

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have a [redacted] the question we asked the question. This process has not disproved [redacted] of the birth verification project. In fact, it has reinforced [redacted]ry conclusions. We can continue with this process if you feel we [redacted] data. The process has been time consuming (i.e. expensive) and somewhat disconcerting to the people we have contacted. I would like you to consider the information available at this point and let me know if you feel we have prima-facie evidence to file suit. As you know a lawsuit will alleviate some of our statute of limitations problems and hopefully will put the burden of proof on U.T.A. to explain the large number of discrepencies found to date.

Sincerely,

Thomas J. Peskta
Division of Certification
and Program Review

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RABBINICAL EXTRACT REPORT FILE

REPORT NUMBER	REPORT TITLE
1	2 or more awards same year
2	3 or more years between awards
3	Discrepancies in last name/first name
4	Discrepancies in date of birth
5	Age < 17 or > 30 in award year
6	3 or more vendors
7	5 or more awards
8	Consecutive SSN's with first 8 digits the same

SUMMARY REPORT OF NONTECHNICAL VENDORS
WITH RECORDS ON REPORT EXTRACT FILE
RECORD COUNT BY REPORT # & NUMBER OF UNIQUE SSN'S

SCHOOL NUMBER	TOTAL UNIQUE SSN'S COUNT	SCHOOL NUMBER	RPT 1-8 UNIQUE SSN'S COUNT	REPORT 1 RECORD COUNT	REPORT 2 RECORD COUNT	REPORT 3 RECORD COUNT	REPORT 4 RECORD COUNT	REPORT 5 RECORD COUNT	REPORT 6 RECORD COUNT	REPORT 7 RECORD COUNT	REPORT 8 RECORD COUNT
001385	1,303	001385	193	10	8	23	8	4		8	50
001468	5,162	001468	1,083	34	53	272	168	1,303		161	197
001509	953	001509	260	4	11	24	11	197		8	34
001685	7	001685	1								1
002087	116	002087	28	8	5		1	5	7	12	6
002590	676	002590	78	5	1	20	10	19		12	16
002666	5,700	002666	1,263	67	93	137	95	602	11	113	380
002732	7,101	002732	1,188	86	90	169	92	259	3	211	492
002751	17,665	002751	3,963	249	253	566	328	1,261	6	861	1,260
002760	1,069	002760	168	27	8	28	19	63		23	60
002769	5,752	002769	1,023	67	132	163	160	693	3	191	639
002772	16,976	002772	6,065	170	202	601	353	2,309	7	651	1,020
002877	9,006	002877	2,690	122	529	561	269	972	65	280	1,070
002903	1,366	002903	269	22	26	33	21	60	9	31	116
003115	91	003115	36	1	6	8	3	13	6	4	11
003296	2,872	003296	525	34	38	67	66	105		54	265
003306	6,569	003306	713	56	46	120	69	101		65	367
003606	1,310	003606	305	6	10	66	20	266		11	26
003972	662	003972	238	12	62	63	20	66	52	76	92
003974	102	003974	41	3	12	10	1	18	6	14	13
003976	636	003976	609	17	17	95	61	357	19	18	53
003977	271	003977	168	2	30	65	17	58	31	69	63
003978	138	003978	62	6	7	7	5	7	3	15	10
[illegible] — 004761	373	004761	47% 176	1	20	60	60	61	33	25	61
[illegible] — 004767	1,701	004767	48% 816	20	63	192	66	650	70	15	155
004775	166	004775	55	1	6	16	9	21	6	7	15
004776	696	004776	263	11	67	100	61	63	6	66	78
004798	576	004798	281	16	56	82	20	76	56	98	86
004819	178	004819	93	5	30	26	17	28	23	23	37
004829	126	004829	67	1	3	12	8	6	18	5	21
004838	266	004838	33	1	6	5	1	6	2	3	17
007268	161	007268	40	2	12	17	5	32	9	17	30
008125	296	008125	61	3	7	7	6	7		9	9
[illegible] — 008610	1,056	008610	[illegible] 692	7	107	176	90	366	63	226	261
[illegible] — 008616	409	008616	[illegible] 318	2	30	53	11	160	22	162	121
008617	96	008617	50	1	8	12	6	20	10	15	17
009227	808	009227	67	1	26	25	14	31	4	1	63
009336	125	009336	61		6	20	12	18	12	3	20
009335	57	009335	29	2	6	8	1	3	6	8	6
010142	5,811	010142	1,691	92	111	225	167	1,141	47	155	302
010372	5,191	010372	566	25	11	78	23	276	6	4	252
010373	693	010373	111	12	8	6	4	60	1	5	53
010378	166	010378	61	2	16	12	5	19	10	16	18
010477	60	010477	32	1	6	7	6	8	13	12	16
010509	296	010509	150	3	35	32	17	31	22	68	72
010963	57	010963	17	1	5	6	3	2	3	5	6
010980	212	010980	123	1	20	33	20	65	42	20	35
011076	162	011076	66	1	9	15	6	13	8	15	8
011181	63	011181	60	1	6	10	3	13	11	15	11

8/27/96

SUMMARY REPORT OF MAGNETICAL VENDORS
WITH RECORDS ON REPORT EXTRACT FILE
RECORD COUNT BY REPORT # & NUMBER OF UNIQUE SSN'S

	SCHOOL NUMBER	UNIQUE SSN'S COUNT	SCHOOL NUMBER	UNIQUE SSN'S COUNT	REPORT 1 RECORD COUNT	REPORT 2 RECORD COUNT	REPORT 3 RECORD COUNT	REPORT 4 RECORD COUNT	REPORT 5 RECORD COUNT	REPORT 6 RECORD COUNT	REPORT 7 RECORD COUNT	REPORT 8 RECORD COUNT
	011186	494	011186	146	9	67	56	25	69	6	29	39
	011187	193	011187	63	15	11	12	5	23	14	9	24
	011188	199	011188	61		16	8	7	10	4	2	17
5,409,959.00	011190	1,168	011190	37% 650	8	117	223	127	237	36	89	307
	011192	613	011192	261	10	69	66	69	75	71	70	77
	011208	636	011208	291	3	21	80	14	144	3	5	54
	011608	235	011608	127	3	41	37	12	43	52	51	60
	011609	96	011609	60	1	2	10	8	6	13	7	26
	011670	305	011670	195	9	20	68	20	95	31	40	73
	011690	201	011690	129	2	30	50	11	80	58	61	63
	011710	162	011710	98	3	12	23	7	59	11	36	22
	011821	259	011821	130	9	27	35	17	40	32	36	66
	011822	168	011822	92	2	8	18	9	66	10	19	15
	011984	67	011984	63	1	0	9	2	19	7	20	15
	011986	150	011986	65	1	19	18	8	32	16	9	33
	011988	98	011988	69	8	3	19	4	13	4	15	12
	011990	90	011990	20	1	2	9	0	1	8	4	6
2,060,613.00	011991	369	011991	33% 205	3	76	77	35	107	28	105	67
	011992	75	011992	60	2	11	13	8	11	15	15	17
	011993	116	011993	27		6	6	5	12	3	1	8
	011994	686	011994	305	5	200	110	63	141	80	163	126
	011995	231	011995	59	3	4	8	2	20	2	1	31
	011997	177	011997	98	2	16	26	7	60	26	30	21
1,083,911.00	012010	612	012010	37% 235	9	18	67	28	104	30	22	60
	012011	330	012011	190	10	20	68	52	81	9	62	66
	012960	107	012960	67		8	12	5	30	11	13	22
	012961	108	012961	17	1		5	5	8	3	1	4
1	013026	360	013026	203	8	46	51	65	56	63	62	86
925,193.00	013027	327	013027	36% 127	3	22	65	16	60	17	66	67
	013130	80	013130	33	4	3	10	3	3	4	16	12
	013577	20	013577	11	1	2	2	3	4		3	1
	013810	137	013810	39		6	12	4	19	3	8	4
	013816	95	013816	35	1	2	9	3	17	2	10	5
	013818	100	013818	60	1	4	16	6	35	2	12	13
	014290	102	014290	71	5	9	15	7	24	10	35	23
1,069,953.00	014500	396	014500	63% 249	3	51	89	27	164	63	87	80
	014508	61	014508	13	1	2	7	4	1	3	2	2
	014614	27	014614	8	1	1	2		1	1	3	2
	014615	22	014615	12		2	3	1	3	1	3	1
	014811	59	014811	11		4	2	1	3	1	1	5
	014812	46	014812	27		3	10	3	12	4	8	12
	015021	13	015021	3		1					1	1
	015131	20	015131	11	1	3	1		2	7	5	6
	015292	551	015292	103	8	45	27	11	33	19	19	36
660,594.00	015879	170	015879	45% 70	1	16	32	6	30	2	1	27
	015885	66	015885	19			3	1	4			7
	FINAL T	110,195	FINAL T	30,513	1,381	3,400	5,765	3,010	14,025	1,425	4,806	9,472

30,513 RECORDS TOTALED ✓

110,195 RECORDS TOTALED

7/20

* Tom - noted. Thanks RAH

U.S. DEPARTMENT OF EDUCATION

MEMORANDUM

TO : Richard A. Hastings
Director, Management Services

SEP 5

FROM : Thomas J. Pestka
Division of Certification & Program Review

SUBJECT: New York Religious Schools

This is a brief of our meeting with the Department of Education I.G., Department of Justice Attorneys and a representative from the HHS I.G. A list of attendees is attached for your information.

I began the meeting by advising the participants that you had intended to be there but had been called away at the last minute. I advised the I.G. people that projects completed to date indicate serious problems with a number of New York religious schools and that you (SFA) and the Department of Justice were committed to doing case development work which may lead to administrative action, civil litigation or criminal convictions. I said that the purpose of the meeting was to get a commitment from I.G. investigations, I.G. audit and the HHS I.G. to devote staff resources to case development.

Since some of the attendees were not familiar with the problems being discussed I gave them a brief synopsis of the problems encountered with some institutions. (See Attachment A). I said that evidence developed to date indicates the problems found with regard to Be'er Shmuel have been found in other institutions as well. I continued by giving a summary of our findings with regard to the birth verification project - 633 births out of 1478 could not be verified (See Attachment B).

I also discussed the computer match projects we completed using Pell Grant data, cross matching one school's data against another, and the eight computer reports (Attachment C) we contemplate using to focus on Pell related problems at various schools.

I asked Steve Altman to discuss his impressions of the cases in development. Steve advised that the evidence uncovered would dictate any action taken by DoJ. He said that he would devote a substantial amount of his time to case development as well as a substantial amount of Ron Clark's and Alan Klienburd's time. Steve said there are basically two ways to work these cases. The first is to work on the school eligibility aspect - if a school was never eligible then all the Title IV money they ever received must be returned. The second is the student eligibility issue - which we have strong evidence for but which must be developed further on a student by student basis. Steve said that we would need person power commitments in order to focus on either area but that it appears, at this time, that we will have to focus on the students. He said he needed information that will require interviews.

I stated that SFA was prepared to match the I.G. person for person in devoting staff resources toward such a project. Arthur Sinai asked for our views on where we were going with all this data we are gathering.

I said that Steve and I had discussed this matter to some extent and I felt that we had to narrow our focus. I said that right now I have identified 10 school's which have received approximately 22 million in Title IV funds. I intend to check their financials to see if we could recover federal funds if we decided to file suit. I said that we would also explore the possibility of a common link between the schools (e.g. Rabbi A. Tenenbaum). I also said that it was my plan to refine the data in Attachment C so that an index could be developed which would indicate the degree of problems at a particular school. Once we decide which schools to focus on we would need the date of birth/place of birth data from SSA on each recipient and perform birth verification on each. We would need to perform program reviews and/or audits at each school. We would then need to interview students who appear to be problems - as a result of birth verfivation or program review/audit. Concurrently we would have to check the work of CPA's who have previously performed Title IV audits.

Once this developmental work has been completed we (the government) would then have to make decisions with regard to the type of action to take - administrative action, no action, civil suit or criminal prosecution.

Mr. Sinai said he would devote staff as needed but would commit to assigning one investigator to do interviews on a 1/2 time basis beginning September 17. SFA agreed to commit one person 1/2 time to assist with the interviews. Mr. Sinai also agreed to speak to the HHS Inspector General for investigations about opening a joint investigation and giving ED access to SS5 data.

I agreed to continue working with the I.G. in Region II on cross match projects with various agencies including the New York State Guarantee Agency. I also agreed that you would write to Frank Yanni requesting expansion of their audit of 3 I.C. schools to cover the other institutions which appear to have related problems.

I also advised Art Sinai that we are in the process of gathering data for each school which would show reported Title IV awards/expenditures for each year. He is interested in seeing the financial data for certain schools over the last three years. I feel that the meeting was productive in that specific commitments were made and that the people in attendance have a better understanding of the problems related to the New York religious schools. The meeting also helped the participants get a feel for the direction future projects must take if we expect to achieve a return.

8/30/84

SUBJECT: New York Religious Schools

Attendees:
- DoJ:
  - S. Altman
  - R. Clark
- HHS/I.G.:
  - B. Clark
- ED/OSFA:
  - T. Pestka
  - R. Lipton
  - R. McKiernan
- ED/IG:
  - A. Sinai
  - R. Scott
  - M. Aulicino
  - R. Gonzalez
  - J. Devlin
  - J. Termini
  - A. Clough

J, CE

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, MARCH 27, 1984

CIV
202-633-4389

The Department of Justice today filed a civil suit against Rabbi Moshe Horowitz, Be'er Shmuel Talmudical Academy, Congregation and Yeshiva B'er Schmuel, Inc., and Yeshiva Amod Hatorah, Inc., all of New York City, seeking to recover more than $1 million of Department of Education funds that Horowitz and the Academy are alleged to have received improperly.

The complaint, filed in U.S. District Court in Brooklyn, alleges that Horowitz made false statements to obtain Basic Educational Opportunity Grant, Supplemental Educational Opportunity Grant, and College Work Study funds from 1976 through February 1980.

Be'er Shmuel Academy falsely stated that it was a post-secondary educational institution and that its students received credit at other accredited colleges, according to the complaint. Also, grant money was received for nonexistent or ineligible students, the complaint alleges.

Horowitz is under criminal indictment over the matter and is currently a fugitive.

Congregation and Yeshiva B'er Schmuel, Inc., and Yeshiva Amod Hatorah, Inc., are believed to be sham corporations to which Horowitz deposited the proceeds of the illegally obtained funds, according to the civil complaint.

(MORE)

The False Claims Act, and its statute of limitations, permits the government to seek recovery of double the more than $600,000 of funds granted from 1978 to 1980. The government also seeks return of grant money due to breach of contract from 1976 to 1980. The total sought by the suit is $1.6 million, including damages.

# # # #

Arthur Sell
Assistant Inspector General
for Investigation

MAR 29 1984

Thomas J. Pestka
Division of Certification and Program Review

Chronologies - Talmudical/Rabbinical Schools
Associated with Rabbi Abraham Tenenbaum

As we expressed to you in our meeting on February 3, 1984 the Office of Postsecondary Education (OPE) is concerned with the apparent pattern of misconduct of certain Rabbinical or Talmudical Schools represented by Rabbi Abraham Tenenbaum.

These chronologies are based on information in files maintained by OPE. They are intended to give you an overview of the problems we have encountered to date.

Background:

- Procedure for qualification under Three-Institutional-Certification ("3-I-C method") August 20, 1970 (Attachment 1)
- OGC opinion re: "3-I-C" April 23, 1982 (2)
- OGC opinion re: Definition of "enrolled", March 12, 1980 (3)
- List of schools covered by this memo (4)

Chronology - "original eight"

7/79	A review/investigation of the "original eight" was performed by HEW I.G.
9/24/79	Subpoenas were served on the original eight; documents and records were sought
1/23/80	Acting I.G. requested SFA to take emergency action against the "original eight"
1/30/80	Emergency action was taken against "original eight" (34 CFR, Part 668, Subpart G)
2/27/80	Intent to terminate letters were sent to the "original eight".
7/7/80	Hearings were scheduled - then postponed in order to work out limitation agreements.
2/81	SFA sent all documents related to the "original eight" to A. Sinai.
2/81	Subpeonas were served, re: criminal investigation.
3/4/81	An administrative hearing was held. United Talmudical Academy (UTA) and Rabbinical Seminary of New Square (RSNS) agreed to limitation agreements, which were signed 6/18/81. Rabbinical College of Tash failed to attend; the other five withdrew their requests for a hearing.
5/9/81	Six schools were terminated retroactive to 3/24/80.

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6/18/81	Limitation agreements were signed by U.T.A. and R.S.H.S.
	Target: Emergency actions remain in effect until program requirements, including audits, are met.
6/8/83	The U.T.A. Audit was rejected by I.G.A., Region II
9/21/83	The Department of Justice, Civil Division wrote R. Hastings requesting his recommendation with regard to a civil suit against Be'er Shmuel.
10/6/83	R. Hastings recommended proceeding with a civil suit against Be'er Shmuel.
2/2/84	Letter sent to Rabbi Tenenbaum demanding reimbursement for $1,870,280 in double damages and forfeitures, the liability under the false claims act incurred by Be'er Shmuel. Letter sent by Stephen Altman, Civil Division, DoJ. (Attachment 5)

Chronology - Beth Rochel Seminary, Monsey, N.Y.

10/19/79	Initial eligibility to participate in Title IV programs was granted (3-1-C).
12/13/79	Initial eligibility revoked (Attachment 6) students never enrolled at Hofstra University.
11/17/80	Initial eligibility was granted (3-1-C) (again).
5/19/81	SFA reported findings of program review to Beth Rochel (Attachment 7)
8/6/81	SFA informed the school that the program review would remain open until it received I.G.A. report (Attachment 8).
10/20/81	The I.G.A. report was issued - inconsistencies in diplomas, dates of attendance and transcripts were found (Attachment 9)
12/7/81	The initial eligibility was revoked (Attachment 10) because students never registered at Touro College.
4/21/82	OPE confirmed revocation of the school's eligibility (Attachment 12).
9/12/83	Initial eligibility was granted (again)
1/10/84	A demand for payment of $52,268.00 liability for Title IV funds received prior to eligibility was made by Financial Management Service.
1/23/84	SFA forwarded findings based on the review of 3-1-C documentation submitted by Beth Rochel in support of their eligibility to the IGI, Region II (Attachment 13)
1/25/84	The attorney for Beth Rochel appealed the determination of liability for $52,268.00 to the Assistant Secretary, OPE.

Chronology - Bnos Jerusalem, Brooklyn, NY

2/10/82	Initial eligibility to participate in Title IV programs was granted
11/22/82	Initial eligibility was granted again (due to change of address)
11/10/83	SFA reported that three students, previously certified, never enrolled at Friends World College.
11/18/83	A letter from Friends World College advised ED that students did not enroll. (Attachment 15)
12/13/83	Initial eligibility was revoked (Attachment 16) because students reported to be enrolled were not enrolled at Friends World College.

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Page 3 - Arthur . 1

[illegible] A letter certifying 3 students enrolled at Caldwell College was sent to OPE by Bnos Jerusalem (Attachment 17)
[illegible] OPE confirmed revocation of the school's eligibility (Attachment 18)
[illegible] Initial eligibility was granted based on new certifications (Caldwell College).
2/13/80 A FOI request from the school's attorney answered.

Chronology - Gruss Girls Seminary, Spring Valley, NY

1/15/79 Initial eligibility to participate in Title IV Programs was granted (3-1-C).
2/10/82 The school was recertified eligible (3-1-C).
11/17/83 SFA Region II forwarded results of program review to OIG, Region II.
  - Discrepencies were found with regard to information provided by Gruss to Mercy College.
  - The students receiving Title IV assistance also reported to local school district as elementary/secondary school students.
  - "3-1-C" students never enrolled at Mercy College and Friends World College. (Attachment 19)
11/18/83 A letter from Friends World College was sent to OPE indicating Gruss (3-1-C) students never enrolled. (Attachment 15)
12/13/83 The school's eligibility which was granted 2/10/83 was revoked by OPE because one student did not enroll at Mercy College and three students did not enroll at Friends World College (Attachment 20)
1/6/84 The IGI opened a criminal investigation.
1/11/84 SFA, Region II, Recommended termination proceedings, in view of their findings:
  - The school does not meet standards of administrative capability 34 CFR 668.16.
  - The school misrepresented the nature of its educational program 34 CFR 668.63 (x).
  - The school demonstrated its inability to "administer program funds with the required highest standard of care of a fiduciary.
1/13/84 The IGA Region II rejected an audit covering Title IV Programs 7/1/80 - 6/30/82. (Attachment 21)
2/7/84 The school re-applied for 3-1-C eligibility.

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United States Department of Agriculture
Office of Inspector General
Investigations North Atlantic Region
26 Federal Plaza
Room 1707
New York NY 10278

OCT 01 1987

U.S. Department of Justice
Commercial Litigation Branch
Civil Division
P.O. Box 261, Ben Franklin Station
Washington, DC 2044

Attn: Mr. Ron Clark

Dear Mr. Clark:

The records of the New York State Education Department, Bureau of School Food Management, show that at the present time Gruss Girls School, 1 Adams Lane, Spring Valley, NY, is participating in the National School Lunch and Breakfast Programs. Last year's attendance was 680 students. Rabbi Joseph Breuer is the program Hearing Official. Rabbi David Tambor is the program Reviewing Official and Verification Official. Gruss is also receiving USDA donated commodities, according to Karen Feuer of the Board of Jewish Education (phone 212-245-8200). Shirley Berger, of the New York State Education Department phone (518-474-3926), advised that Gruss received $18,570.27 in May 1987 and $13,130.07 in April 1987 for its participation in USDA financed feeding programs. Windsor Lott, of the New York State Education Department, Testing Division (518-474-5902), advised that in 1986 41 third graders, 47 fifth graders, and 46 sixth graders were tested for reading and math at Gruss Girls School.

County Clerk records in Ramapo, NY, disclosed that the property occupied by Gruss, 1 Adams Lane, Spring Valley (lot No. 010-000-0055-A02), is owned by Congregation Zemach David NB, Truman Avenue, Spring Valley, NY. The total value of the property is listed as $1,213,500. The land value is listed as $38,500. The improved value is listed as $1,175,000. The property was involved in litigation regarding back taxes from 1980 to the present. A stipulation was agreed to by the County and the taxpayer. Information about the stipulation can be obtained by contacting Murray Jacobson, Assistant County Attorney, or Ilan Schoenburger at (914) 638-5180.

The Office of Inspector General
is an agency of the
United States Department of Agriculture

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Another property listed by Gruss, No. 15 Roosevelt Avenue, Village of New Square, consists of the following nineteen lots:

Lot No. 010-000-0055	AKIA
"	AK10
"	AK14B
"	AK15C
"	AK8
"	AK9
"	AP4A
"	AO3A2
"	AO3A1
"	AO3B
"	AO4B
"	AO5A
"	AO6A
"	AM1
"	AM2
"	AM3
"	AM4A
"	AM5A
"	AM6A

About 1/2 these lots are owned by CD Square Realty Corporation, 15 Roosevelt Avenue, New Square. About 1/4 of the lots is owned by Congregation Zemach David NS, another 1/4 is owned by Yeshiva of New Square Talmud Torah, 91 Washington Avenue, New Square. A majority of the lots are involved in the aforementioned litigation.

County clerk records show Gruss had a warrant filed against it by the New York State Department of Labor, Unemployment Insurance Division, Commissioner of Labor. The warrant was filed April 21, 1987 (File No. 221, Page No. 1464) and was for $5,413.91. The records also showed three satisfied judgements by Gruss, on January 3, 1983 (Book 5, Page 940 - Reference 5307/82) and two on January 13, 1983 (Book 5, Page 2818 and 2820).

County Clerk records show two UCC-1 filings (see attachment) for Gruss Officer, Joseph Breuer. Hersh Frieder, Assistant Administrator of Gruss, had six filings as noted below:

Filing Type	Date of Filing	Book/Page	Other Party
Contract	12-30-85	126/1531	From Mark Corbett
Deed	01-10-86	128/2177	From Elizabeth Pitt
Contract	03-28-86	140/783	To Benjamin Haber, Esq.
Contract	04-22-86	143/2485	To Peter Kenny
Contract	05-30-85	150/2102	From Mateo Condeno
Deed	10-07-86	178/2953	To Silvia Weisser

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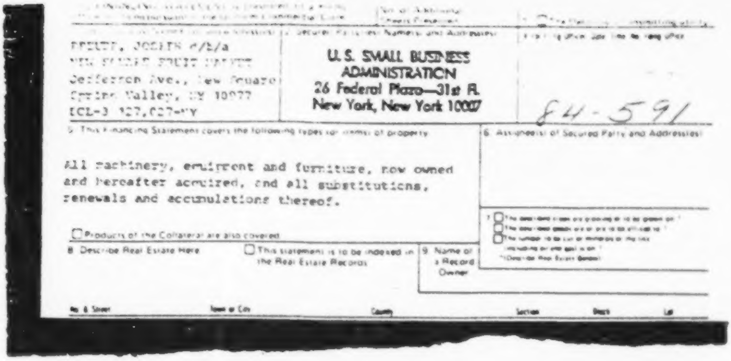
If you desire additional information regarding the above, please contact Special Agent John Yasek or Special Agent Leonard Ringel (FTS: 264-8400). We will forward to you a Dun & Bradstreet report on Gruss as soon as we receive it.

Thomas V. St. Pierre

Thomas V. St. Pierre
Regional Inspector General
for Investigations



This FINANCING STATEMENT is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code | No. of Additional Sheets Presented | 3. ☐ The Debtor is a transmitting utility

1. Debtor(s) (Last Name First) and Address(es)

PHILIP, JOSEPH d/b/a
NEW SQUARE FRUIT MARKET
Jefferson Ave., New Square
Spring Valley, NY 10977
ECL-3 127,027-NY

2. Secured Party(ies) Name(s) and Address(es)

U.S. SMALL BUSINESS
ADMINISTRATION
26 Federal Plaza—31st Fl.
New York, New York 10007

4. For Filing Officer: Date, Time, No. Filing Office

84-591

5. This Financing Statement covers the following types (or items) of property

All machinery, equipment and furniture, now owned and hereafter acquired, and all substitutions, renewals and accumulations thereof.

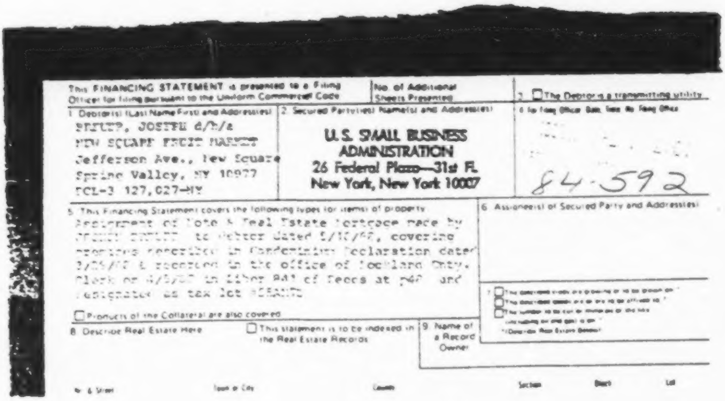
☐ Products of the Collateral are also covered

6. Assignee(s) of Secured Party and Address(es)

7. ☐ The described crops are growing or to be grown on:*
☐ The described goods are or are to be affixed to:*
☐ The lumber to be cut or minerals or the like (including oil and gas) is on:*
*(Describe Real Estate Below)

8. Describe Real Estate Here | ☐ This statement is to be indexed in the Real Estate Records | 9. Name of a Record Owner

No. & Street | Town or City | County | Section | Block | Lot



This FINANCING STATEMENT is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code | No. of Additional Sheets Presented | 3. ☐ The Debtor is a transmitting utility

1. Debtor(s) (Last Name First) and Address(es)

PHILIP, JOSEPH d/b/a
NEW SQUARE FRUIT MARKET
Jefferson Ave., New Square
Spring Valley, NY 10977
ECL-3 127,027-NY

2. Secured Party(ies) Name(s) and Address(es)

U.S. SMALL BUSINESS
ADMINISTRATION
26 Federal Plaza—31st Fl.
New York, New York 10007

4. For Filing Officer: Date, Time, No. Filing Office

84-592

5. This Financing Statement covers the following types (or items) of property

Assignment of Note & Real Estate Mortgage made by [illegible] to Debtor dated [illegible], covering premises described in Condominium Declaration dated [illegible] & recorded in the office of Rockland Cnty. Clerk on [illegible] in Liber 841 of Deeds at p4[illegible] and designated as tax lot [illegible]

☐ Products of the Collateral are also covered

6. Assignee(s) of Secured Party and Address(es)

7. ☐ The described crops are growing or to be grown on:*
☐ The described goods are or are to be affixed to:*
☐ The lumber to be cut or minerals or the like (including oil and gas) is on:*
*(Describe Real Estate Below)

8. Describe Real Estate Here | ☐ This statement is to be indexed in the Real Estate Records | 9. Name of a Record Owner

No. & Street | Town or City | County | Section | Block | Lot

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Senate Permanent Subcommittee
on Investigations

EXHIBIT # 89

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

I, WENDY IFILL, being duly sworn, say: I have read the foregoing affidavit and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to true.

My full legal name is Wendy Ifill. My maiden name is Wendy Griffith. I reside at 730 East 35th St., Brooklyn, New York 11210, (718)-421-3160. My Social Security number is 120-64-2560 and date of birth 2/26/62.

On August 5, 1993, I was interviewed by Robert Hast, Assistant Director for Investigations, United States General Accounting Office, and Brian Hickey, United States Department of Education, and on August 27, 1993, I was interviewed by Special Agent William Hamel, United States General Accounting Office, and Robert Hast, Assistant Director for Investigations, United States General Accounting Office. During these interviews I made the following statements. These statements are true and correct, and are as follows:

1) I was employed by Mr. Yaakov (Jacob) Ginzburg at Penn Star Consultants located at 225 W. 34th Street, Suite 1309, New York, New York from 1988 until he was arrested by U.S. Immigration in 1992. I was his only employee.

2) For the first two years my only duties were related to immigration paperwork for recent immigrants that Ginzburg was processing. However, in 1990 I began to work with Federal Student Aid applications. I was told by Ginzburg that they were student application forms to go to school.

3) Ginzburg would give me files and I would use the information in them to fill out blank Student Aid applications. Some of the applications were signed and blank. Some were signed by students after they waited for me to complete them.

4) The Student Aid applications were brought to the office by Ginzburg. He brought a box of them, but I do not know where they came from.

5) Some of the Student Aid application files were for people that Ginzburg did immigration work for, but some were only related to students.

6) Ginzburg gave me blank letterhead paper to type employment information letters on. He gave me the employment information. If Ginzburg asked me to sign the letters I would

and he told me it would be OK [illegible]

only sign those who were familiar to me because of the immigration work). I would not sign the other letters, because I did not know them. Ginzburg would sign them or take them to be signed. I witnessed Ginzburg sign some of the letters. The income information I used on the Student Aid applications and employment verification letters came from Ginzburg. If a tax return was in the file that Ginzburg gave me to work with, I would use that figure. If not, I would type a letter from an employer. If there were letter head in the file I would use that. However, if there was no letterhead I created it on the computer, in response to Ginzburg's request. Information was also taken from previous letters. Attachments I-V of this affidavit were signed by me. Attachments VI-IX might have been W.H. signed by Ginzburg.

7) I saw checks from a school in Ginzburg's desk for $250 to $500 made payable to different people in Ginzburg's desk drawer, and later saw people come in and receive the checks from Ginzburg. I also received one call from a student wanting to know if her check had come in yet.

8) Ginzburg never introduced me to anyone from the schools he dealt with.

9) I am currently employed by Nora Lee, located at 505 8th Ave, Suite 1510, New York, New York doing the same type of immigration work.

10) I have initialed any changes made on this affidavit consisting of this and one other page.

Wendy Hill (Signature of Affiant)

Sworn before me this 21st day of September, 1993.

Witness: William [illegible] SA

Murray
[illegible] A MURRAY
Notary Public, State of New York
No. 03-[illegible]
Qualified in Bronx County
Commission Expires 5/31/95

Jerod Bagels
3913 13th Avenue • Brooklyn, NY 11219 • (718) 851-1716

October 8, 1991

To Whom it may Concern:

Dear Sir/Madam:

This letter certifies that Mr. Avigdor Deutsch was employed in our company and was paid a salary of $6,800.00 for the year 1990.

Sincerely,

Abe Salam

Abe Sa[illegible]

BIZAARE HAIRCUTTERS
508 Kings Highway
Brooklyn, NY 11223
(718) 336-8955

October 4, 1991

TO WHOM IT MAY CONCERN:

This letter certifies that Mr. Ami Sharabi worked in our company and was paid a salary of Six Thousand ($6,000.00) Dollars for the year 1990.

Sincerely,

Roni Bechar
Roni Bechar

BIZAARE HAIRCUTTERS
508 Kings Highway
Brooklyn, NY 11223
(718) 336-8955

January 10, 1990

TO WHOM IT MAY CONCERN:

This letter certifies that Mr. Ami Sharabi worked in our company and was paid a salary of Six Thousand ($6,000.00) Dollars for the year 1989.

Sincerely,

Roni Bechar
Roni Bechar

Federal Student Aid

U.S. Department of Education
Student Financial
Assistance Programs

…ly give false or misleading information on this form, you may be fined …, sent to prison, or both.

… "your" on this form always mean the student who wants aid.

…ction A: Yourself

Your name: SHAHABI (Last) AMI (First) (M.I.)

Your permanent mailing address (Mail will be sent to this address. See page 2 for State/Country abbreviation.): 3501 BEDFORD AVENUE (Number and Street (include Apt. No.))

BROOKLYN (City) NY (State) 11230 (ZIP Code)

Your title (optional)
☑ Mr.
☐ Miss, Ms., or Mrs.

Your State of legal residence: NY (State)

Your social security number: 057 66 2145

Your date of birth: 03 25 57 (Month Day Year)

7. Are you a U.S. citizen?
☐ Yes, I am a U.S. citizen.
☑ No, but I am an eligible noncitizen. *(See the instructions on page 2.)*
A 2 4 3 5 8 5 0 6 7
☐ No, neither of the above. *(See the instructions on page 3.)*

8. As of today, are you married? *(Check only one box.)*
☑ I am not married. (I am single, divorced, or widowed.)
☐ I am married.
☐ I am separated from my spouse.

9. What year will you be in college in 1990-91? *(Check only one box.)*
☐ 1st *(never previously attended college)*
☐ 1st *(previously attended college)*
☐ 2nd ☐ 3rd ☐ 4th
☐ 5th or more undergraduate
☐ first year graduate/professional (beyond a bachelor's degree)
☐ Continuing graduate or professional

10. Will you have your first Bachelor's degree before July 1, 1990?
☐ Yes ☐ No

…ection B: Student Status

	Yes	No
a. Were you born before January 1, 1967?	☐	☐
b. Are you a veteran of the U.S. Armed Forces?	☐	☐
c. Are you a ward of the court or are both your parents dead?	☐	☐
d. Do you have legal dependents (other than a spouse) that fit the definition in the instructions on page 3?	☐	☐

If you answered "Yes" to any part of question 11, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form. Skip questions 12 through 15.

If you answered "No" to every part of question 11, and you are

- Unmarried now (single, divorced, separated, or widowed) and will be an undergraduate student in 1990-91, answer question 12. (Skip question 15.)
- Married now or will be a graduate/professional student in 1990-91, answer question 15. (Skip questions 12 through 14d.)

Unmarried Undergraduate Students Only

…. Did your parents claim you as an income tax exemption?

	Yes	No
… in 1988?	☐	☐
… in 1989?	☐	☐

If you answered "Yes" to either year in question 12, go to Section C, and fill out the "BLUE" and the WHITE areas on the rest of the form. (Skip questions 13 through 15.)

If you answered "No" to both years in question 12, answer question 13 below.

… Beginning with the 1987-88 school year, you first received Federal student aid… *(Check only one box: a, b, c, or d. See instructions on page 2.)*

… ☐ In the 1987-88 school year (Answer 14a below. Skip questions 14b, 14c, and 14d.)

b. ☐ In the 1988-89 school year (Answer 14b below. Skip questions 14a, 14c, and 14d.)

c. ☐ In the 1989-90 school year (Answer 14c below. Skip questions 14a, 14b, and 14d.)

d. ☐ In neither a, b, or c (Answer 14d below. Skip questions 14a, 14b, and 14c.)

…4a. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
… in 1985?	☐	☐
… in 1986?	☐	☐

14b. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
… in 1986?	☐	☐
… in 1987?	☐	☐

14c. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
… in 1987?	☐	☐
… in 1988?	☐	☐

14d. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
… in 1988?	☐	☐
… in 1989?	☐	☐

If you answered "No" to either year in question 14a, 14b, 14c, or 14d, go to Section C and fill out the "BLUE" and the WHITE areas on the rest of the form.

If you answered "Yes" to both years in question 14a, 14b, 14c, or 14d, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form.

Married or Graduate/Professional Students Only

…. Will your parents claim you as an income tax exemption in 1990?

Yes	No
☐	☐

If you answered "Yes" to question 15, go to Section C and fill out the "BLUE" and the WHITE areas on the rest of the form.

If you answered "No" to question 15, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form.

☐ FORM 200

BIZAARE HAIRCUTTERS
508 Kiggs Highway
Brooklyn, NY 11223
(718) 336-8955

October 4, 1991

TO WHOM IT MAY CONCERN:

This letter certifies that Mr. Ami Sharabi worked in our company and was paid a salary of Six Thousand ($6,000.00) Dollars for the year 1990.

Sincerely,
Roni Bechar
Roni Bechar

```
-COMM.JOURNAL- ------------------ DATE JUN-10-1992 ---- TIME 15:30 ---- P.1

  MODE = TRANSMISSION                           START=JUN-10 15:30     END=JUN-10 15:30

  NO.      COM  SPEED DIAL  STATION NAME/        PAGES   PRG.NO.  PROGRAM NAME
                            TELEPHONE NO.

  001       OK   8          17108710981          001
                                                    -PENNSTAR                -
------------------------------------------------------ -     212  260  7969- --------
```

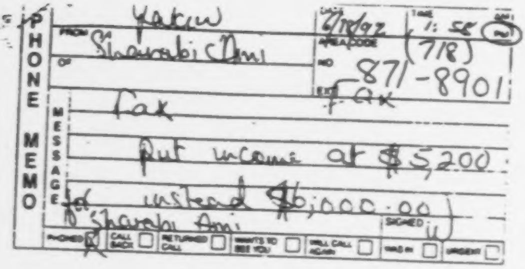
BIZZARE HAIRCUTTERS
508 Kings Highway
Brooklyn, NY 11223
(718) 336-8955

June 18, 1992

TO WHOM IT MAY CONCERN:

This letter certifies that Mr. Ami Sharabi worked in our company and was paid a salary of Five Thousand Two Hundred ($5,200.00) Dollars for the year 1990.

Sincerely,
Roni Bechar
Roni Bechar



PHONE MEMO

Yakin

FROM Sharabi (Ami

OF

DATE 2/18/92

TIME 1:55 AM [✓ PM]

AREA CODE (718)

NO. 871-8901

EXT. Fax

MESSAGE

Fax

Put income at $5,200

for instead $6,000.00

to Sharabi Ami

SIGNED W

PHONED ☒ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO WHOM IT MAY CONCERN:

This letter certifies that Mr. Ami Sharabi worked in our company and was paid a salary of Five Thousand Two Hundred ($5,200.00) Dollars for the year 1990.

Sincerely,

Roni Bechar

Roni Bechar

[illegible]

PennStar Consultants
225 West 34th Street/Suite 1309
New York, NY 10122
(212) 268-7966

August 28, 1990

TO WHOM IT MAY CONCERN:

Dear Sir/Madam:

This letter confirms that Mr. Jacob Ginzburg worked in our company as paid a salary in the amount of Ten Thousand ($10,000.00) Dollars for the year ending 1989.

Sincerely,

Wendy Griffith
Wendy Griffith

PennStar Consultants
225 West 34th Street/Suite 1309
New York, NY 10122
Tel: (212) 268-7966
Fax: (212) 268-7969

November 15, 1991

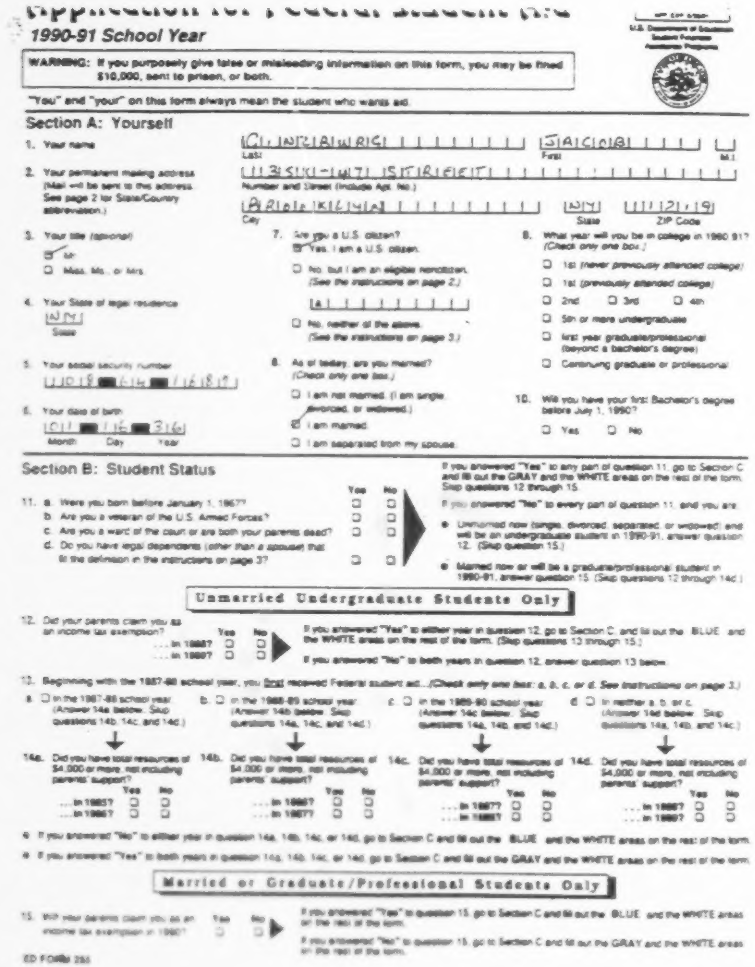
TO WHOM IT MAY CONCERN:

Dear Sir/Madam:

This letter confirms that Mr. Jacob Ginzburg worked in our company asnd was paid a salary in the amount of Ten Thousand ($10,000.00) Dollars for the year ending 1990.

Sincerely,

Wendy Griffith
Wendy Griffith



Application for Federal Student Aid

1990-91 School Year

U.S. Department of Education
Student Financial
Assistance Programs

WARNING: If you purposely give false or misleading information on this form, you may be fined $10,000, sent to prison, or both.

"You" and "your" on this form always mean the student who wants aid.

Section A: Yourself

1. Your name CLNRAWRG (Last) JACOB (First) (M.I.)

2. Your permanent mailing address (Mail will be sent to this address. See page 2 for State/Country abbreviation.)
1350-47 STREET (Number and Street (Include Apt. No.))
BROOKLYN (City) NY (State) 11219 (ZIP Code)

3. Your title *(optional)*
- ☑ Mr.
- ☐ Miss, Ms., or Mrs.

4. Your State of legal residence NY (State)

5. Your social security number 108 [redacted] 64 [redacted] 1687

6. Your date of birth 01 [redacted] 16 [redacted] 36 (Month Day Year)

7. Are you a U.S. citizen?
- ☑ Yes, I am a U.S. citizen.
- ☐ No, but I am an eligible noncitizen. *(See the instructions on page 2.)* A
- ☐ No, neither of the above. *(See the instructions on page 3.)*

8. As of today, are you married? *(Check only one box.)*
- ☐ I am not married. (I am single, divorced, or widowed.)
- ☑ I am married.
- ☐ I am separated from my spouse.

9. What year will you be in college in 1990-91? *(Check only one box.)*
- ☐ 1st *(never previously attended college)*
- ☐ 1st *(previously attended college)*
- ☐ 2nd ☐ 3rd ☐ 4th
- ☐ 5th or more undergraduate
- ☐ first year graduate/professional (beyond a bachelor's degree)
- ☐ Continuing graduate or professional

10. Will you have your first Bachelor's degree before July 1, 1990?
☐ Yes ☐ No

Section B: Student Status

		Yes	No
11.	a. Were you born before January 1, 1967?	☐	☐
	b. Are you a veteran of the U.S. Armed Forces?	☐	☐
	c. Are you a ward of the court or are both your parents dead?	☐	☐
	d. Do you have legal dependents *(other than a spouse)* that fit the definition in the instructions on page 3?	☐	☐

If you answered "Yes" to any part of question 11, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form. Skip questions 12 through 15.

If you answered "No" to every part of question 11, and you are:

- Unmarried now (single, divorced, separated, or widowed) and will be an undergraduate student in 1990-91, answer question 12. (Skip question 15.)
- Married now or will be a graduate/professional student in 1990-91, answer question 15. (Skip questions 12 through 14d.)

Unmarried Undergraduate Students Only

12. Did your parents claim you as an income tax exemption?

	Yes	No
. . . in 1988?	☐	☐
. . . in 1989?	☐	☐

If you answered "Yes" to either year in question 12, go to Section C, and fill out the BLUE and the WHITE areas on the rest of the form. (Skip questions 13 through 15.)

If you answered "No" to both years in question 12, answer question 13 below.

13. Beginning with the 1987-88 school year, you first received Federal student aid...*(Check only one box: a, b, c, or d. See instructions on page 3.)*

a. ☐ in the 1987-88 school year (Answer 14a below. Skip questions 14b, 14c, and 14d.)

b. ☐ in the 1988-89 school year (Answer 14b below. Skip questions 14a, 14c, and 14d.)

c. ☐ in the 1989-90 school year (Answer 14c below. Skip questions 14a, 14b, and 14d.)

d. ☐ in neither a, b, or c. (Answer 14d below. Skip questions 14a, 14b, and 14c.)

14a. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
. . . in 1985?	☐	☐
. . . in 1986?	☐	☐

14b. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
. . . in 1986?	☐	☐
. . . in 1987?	☐	☐

14c. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
. . . in 1987?	☐	☐
. . . in 1988?	☐	☐

14d. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
. . . in 1988?	☐	☐
. . . in 1989?	☐	☐

- If you answered "No" to either year in question 14a, 14b, 14c, or 14d, go to Section C and fill out the BLUE and the WHITE areas on the rest of the form.
- If you answered "Yes" to both years in question 14a, 14b, 14c, or 14d, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form.

Married or Graduate/Professional Students Only

15. Will your parents claim you as an income tax exemption in 1990? Yes ☐ No ☐

If you answered "Yes" to question 15, go to Section C and fill out the BLUE and the WHITE areas on the rest of the form.

If you answered "No" to question 15, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form.

ED FORM 255

BEST COPY AVAILABLE

Application for Federal Student Aid

1990-91 School Year

OMB NO. 1840-0110
APP. EXP. [illegible]
U.S. Department of Education
Student Financial
Assistance Programs

WARNING: If you purposely give false or misleading information on this form, you may be fined $10,000, sent to prison, or both.

"You" and "your" on this form always mean the student who wants aid.

Section A: Yourself

1. Your name: GINZBURG (Last) MALKA (First) (M.I.)

2. Your permanent mailing address (Mail will be sent to this address. See page 2 for State/Country abbreviation.)
1358-47 STREET, APT. D6 (Number and Street (Include Apt. No.))
BROOKLYN (City) NY (State) 11219 (ZIP Code)

3. Your title (optional)
☐ Mr.
☑ Miss, Ms., or Mrs.

4. Your State of legal residence
NY (State)

5. Your social security number
074 [redacted] 66 [redacted] 5320

6. Your date of birth
02 [redacted] 03 [redacted] 44
Month Day Year

7. Are you a U.S. citizen?
☑ Yes, I am a U.S. citizen.
☐ No, but I am an eligible noncitizen. *(See the instructions on page 2.)*
A
☐ No, neither of the above. *(See the instructions on page 3.)*

8. As of today, are you married? *(Check only one box.)*
☐ I am not married. (I am single, divorced, or widowed.)
☑ I am married.
☐ I am separated from my spouse.

9. What year will you be in college in 1990-91? *(Check only one box.)*
☐ 1st *(never previously attended college)*
☐ 1st *(previously attended college)*
☐ 2nd ☐ 3rd ☐ 4th
☐ 5th or more undergraduate
☐ first year graduate/professional (beyond a bachelor's degree)
☐ Continuing graduate or professional

10. Will you have your first Bachelor's degree before July 1, 1990?
☐ Yes ☐ No

Section B: Student Status

		Yes	No
11. a.	Were you born before January 1, 1967?	☐	☐
b.	Are you a veteran of the U.S. Armed Forces?	☐	☐
c.	Are you a ward of the court or are both your parents dead?	☐	☐
d.	Do you have legal dependents (*other than a spouse*) that fit the definition in the instructions on page 3?	☐	☐

If you answered "Yes" to any part of question 11, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form. Skip questions 12 through 15.

If you answered "No" to every part of question 11, and you are

- Unmarried now (single, divorced, separated, or widowed) and will be an undergraduate student in 1990-91, answer question 12. (Skip question 15.)
- Married now or will be a graduate/professional student in 1990-91, answer question 15. (Skip questions 12 through 14d.)

Unmarried Undergraduate Students Only

12. Did your parents claim you as an income tax exemption?

	Yes	No
... in 1988?	☐	☐
... in 1989?	☐	☐

If you answered "Yes" to either year in question 12, go to Section C, and fill out the BLUE and the WHITE areas on the rest of the form. (Skip questions 13 through 15.)

If you answered "No" to both years in question 12, answer question 13 below.

13. Beginning with the 1987-88 school year, you first received Federal student aid... *(Check only one box: a, b, c, or d. See instructions on page 3.)*

a. ☐ In the 1987-88 school year (Answer 14a below. Skip questions 14b, 14c, and 14d.)
b. ☐ In the 1988-89 school year (Answer 14b below. Skip questions 14a, 14c, and 14d.)
c. ☐ In the 1989-90 school year (Answer 14c below. Skip questions 14a, 14b, and 14d.)
d. ☐ In neither a, b, or c. (Answer 14d below. Skip questions 14a, 14b, and 14c.)

14a. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
... in 1985?	☐	☐
... in 1986?	☐	☐

14b. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
... in 1986?	☐	☐
... in 1987?	☐	☐

14c. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
... in 1987?	☐	☐
... in 1988?	☐	☐

14d. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
... in 1988?	☐	☐
... in 1989?	☐	☐

- If you answered "No" to either year in question 14a, 14b, 14c, or 14d, go to Section C and fill out the BLUE and the WHITE areas on the rest of the form.
- If you answered "Yes" to both years in question 14a, 14b, 14c, or 14d, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form.

Married or Graduate/Professional Students Only

15. Will your parents claim you as an income tax exemption in 1990? Yes ☐ No ☐

If you answered "Yes" to question 15, go to Section C and fill out the BLUE and the WHITE areas on the rest of the form.

If you answered "No" to question 15, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form.

ED FORM 255

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ATTACHMENT VI

C.L.S. INTERNATIONAL INC.

46 15th STREET,BROKLYN N.Y. 11215
(718) 768-6868

June 26, 1992

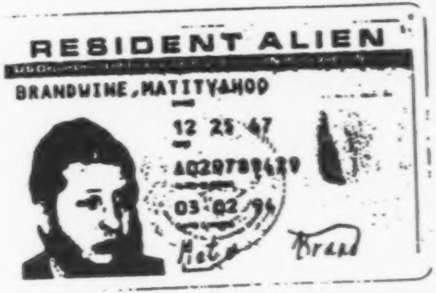
TO WHOM IT MAY CONCERN:

This letter certifies that Mr. Matityahoo Brandwine worked in our company and was paid a salary of $7,000.00 for the year 1991.

Sincerely,

Moshe Israel

VII A



RESIDENT ALIEN

BRANDWINE, MATITYAHOO

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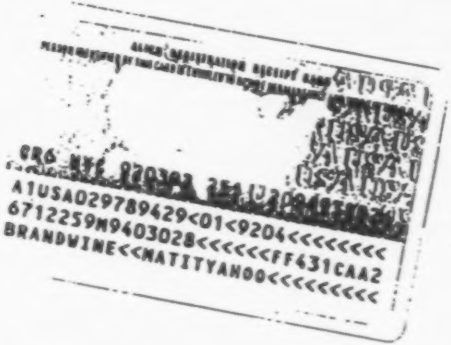

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BRANDWINE<<MATITYAHOO<<<<<<<<<<

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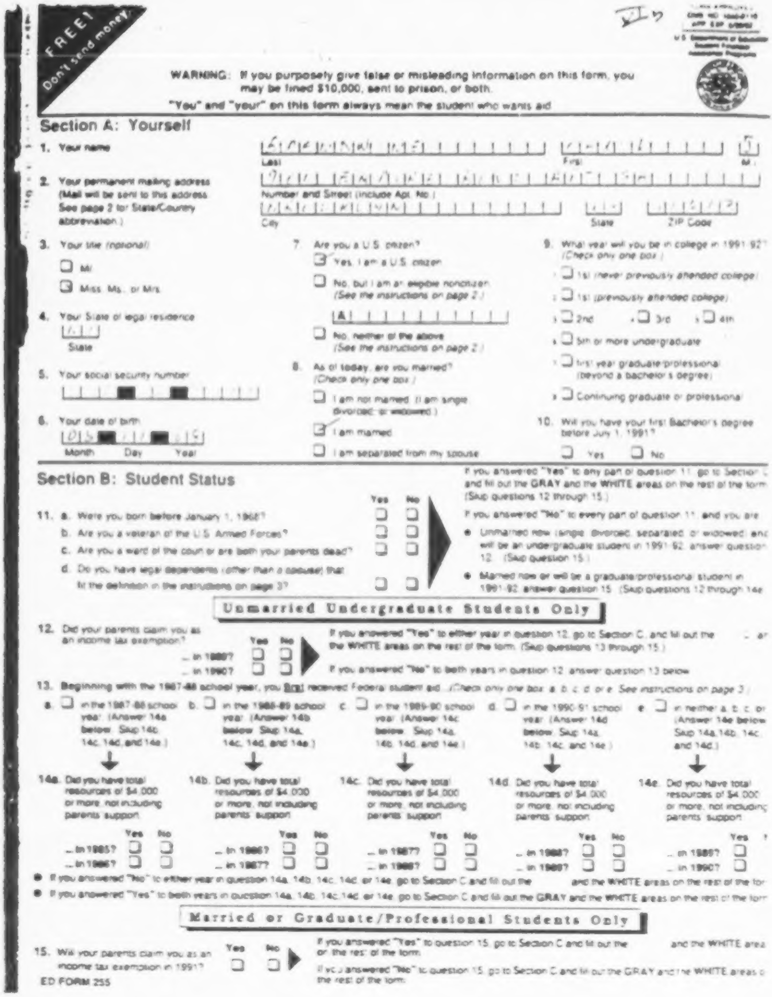


FREE! Don't send money.

[illegible]
U.S. Department of Education
Student Financial Assistance Programs

WARNING: If you purposely give false or misleading information on this form, you may be fined $10,000, sent to prison, or both.

"You" and "your" on this form always mean the student who wants aid

Section A: Yourself

1. Your name [illegible] Last [illegible] First [illegible] M.I.

2. Your permanent mailing address (Mail will be sent to this address. See page 2 for State/Country abbreviation.) [illegible] Number and Street (include Apt. No.) [illegible] City [illegible] State [illegible] ZIP Code

3. Your title *(optional)*
☐ Mr.
☑ Miss, Ms., or Mrs.

4. Your State of legal residence [illegible] State

5. Your social security number [redacted] [redacted]

6. Your date of birth 05 [redacted] [redacted] [illegible] Month Day Year

7. Are you a U.S. citizen?
☑ Yes, I am a U.S. citizen
☐ No, but I am an eligible noncitizen. *(See the instructions on page 2.)*
A
☐ No, neither of the above *(See the instructions on page 2.)*

8. As of today, are you married? *(Check only one box.)*
☐ I am not married. (I am single, divorced, or widowed.)
☑ I am married
☐ I am separated from my spouse

9. What year will you be in college in 1991-92? *(Check only one box.)*
1 ☐ 1st *(never previously attended college)*
2 ☐ 1st *(previously attended college)*
3 ☐ 2nd 4 ☐ 3rd 5 ☐ 4th
6 ☐ 5th or more undergraduate
7 ☐ first year graduate/professional (beyond a bachelor's degree)
8 ☐ Continuing graduate or professional

10. Will you have your first Bachelor's degree before July 1, 1991?
☐ Yes ☐ No

Section B: Student Status

	Yes	No
11. a. Were you born before January 1, 1968?	☐	☐
b. Are you a veteran of the U.S. Armed Forces?	☐	☐
c. Are you a ward of the court or are both your parents dead?	☐	☐
d. Do you have legal dependents *(other than a spouse)* that fit the definition in the instructions on page 3?	☐	☐

If you answered "Yes" to any part of question 11, go to Section C and fill out the **GRAY** and the **WHITE** areas on the rest of the form. (Skip questions 12 through 15.)

If you answered "No" to every part of question 11, and you are

- Unmarried now (single, divorced, separated, or widowed) and will be an undergraduate student in 1991-92, answer question 12. (Skip question 15.)
- Married now or will be a graduate/professional student in 1991-92, answer question 15. (Skip questions 12 through 14e.)

Unmarried Undergraduate Students Only

12. Did your parents claim you as an income tax exemption?

	Yes	No
... in 1989?	☐	☐
... in 1990?	☐	☐

If you answered "Yes" to either year in question 12, go to Section C, and fill out the and the WHITE areas on the rest of the form. (Skip questions 13 through 15.)

If you answered "No" to both years in question 12, answer question 13 below.

13. Beginning with the 1987-88 school year, you first received Federal student aid... *(Check only one box: a, b, c, d, or e. See instructions on page 3.)*

a. ☐ in the 1987-88 school year. (Answer 14a below. Skip 14b, 14c, 14d, and 14e.)
b. ☐ in the 1988-89 school year. (Answer 14b below. Skip 14a, 14c, 14d, and 14e.)
c. ☐ in the 1989-90 school year. (Answer 14c below. Skip 14a, 14b, 14d, and 14e.)
d. ☐ in the 1990-91 school year. (Answer 14d below. Skip 14a, 14b, 14c, and 14e.)
e. ☐ in neither a, b, c, or (Answer 14e below. Skip 14a, 14b, 14c, and 14d.)

14a. Did you have total resources of $4,000 or more, not including parents' support

	Yes	No
... in 1985?	☐	☐
... in 1986?	☐	☐

14b. Did you have total resources of $4,000 or more, not including parents' support

	Yes	No
... in 1986?	☐	☐
... in 1987?	☐	☐

14c. Did you have total resources of $4,000 or more, not including parents' support

	Yes	No
... in 1987?	☐	☐
... in 1988?	☐	☐

14d. Did you have total resources of $4,000 or more, not including parents' support

	Yes	No
... in 1988?	☐	☐
... in 1989?	☐	☐

14e. Did you have total resources of $4,000 or more, not including parents' support

	Yes
... in 1989?	☐
... in 1990?	☐

- If you answered "No" to either year in question 14a, 14b, 14c, 14d, or 14e, go to Section C and fill out the and the WHITE areas on the rest of the for
- If you answered "Yes" to both years in question 14a, 14b, 14c, 14d, or 14e, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form

Married or Graduate/Professional Students Only

15. Will your parents claim you as an income tax exemption in 1991? Yes ☐ No ☐

If you answered "Yes" to question 15, go to Section C and fill out the and the WHITE areas on the rest of the form.

If you answered "No" to question 15, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form.

ED FORM 255

ATTACHMENT —

SHEREL'S HATS
4929 13TH AVENUE
BROOKLYN, NY 11219
(718) 436-0581

December 18, 1991

TO WHOM IT MAY CONCERN:

This letter confirms that Mrs. Tali Kroizer worked in my company and was paid a salary of Eight Thousand ($8,000.00) for the year of 1990.

Sincerely,

Yosi Amar

FREE! Don't send money.

Application for Federal Student Aid

1991-92 School Year

WARNING: If you purposely give false or misleading information on this form, you may be fined $10,000, sent to prison, or both.

"You" and "your" on this form always mean the student who wants aid.

U.S. Department of Education
Student Financial
Assistance Programs

Section A: Yourself

1. Your name
KROUZER — Last
TAL — First
M.I.

2. Your permanent mailing address (Mail will be sent to this address. See page 2 for State/Country abbreviation.)
1490 60 STREET — Number and Street (include Apt. No.)
BROOKLYN — City
NY — State
11219 — ZIP Code

3. Your title *(optional)*
☐ Mr.
☑ Miss, Ms., or Mrs.

4. Your State of legal residence
NY — State

5. Your social security number
094 [redacted] 74 [redacted] 4003

6. Your date of birth
01 [redacted] 06 [redacted] 61
Month Day Year

7. Are you a U.S. citizen?
☐ Yes, I am a U.S. citizen.
☑ No, but I am an eligible noncitizen. *(See the instructions on page 2.)*
A91 435 786
☐ No, neither of the above. *(See the instructions on page 2.)*

8. As of today, are you married? *(Check only one box.)*
☐ I am not married. (I am single, divorced, or widowed.)
☑ I am married.
☐ I am separated from my spouse.

9. What year will you be in college in 1991-92? *(Check only one box.)*
1 ☐ 1st *(never previously attended college)*
2 ☐ 1st *(previously attended college)*
3 ☐ 2nd 4 ☐ 3rd 5 ☐ 4th
6 ☐ 5th or more undergraduate
7 ☐ first year graduate/professional (beyond a bachelor's degree)
8 ☐ Continuing graduate or professional

10. Will you have your first Bachelor's degree before July 1, 1991?
☐ Yes ☐ No

Section B: Student Status

		Yes	No
11.	a. Were you born before January 1, 1968?	☐	☐
	b. Are you a veteran of the U.S. Armed Forces?	☐	☐
	c. Are you a ward of the court or are both your parents dead?	☐	☐
	d. Do you have legal dependents (other than a spouse) that fit the definition in the instructions on page 3?	☐	☐

If you answered "Yes" to any part of question 11, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form. (Skip questions 12 through 15.)

If you answered "No" to every part of question 11, and you are

- Unmarried now (single, divorced, separated, or widowed) and will be an undergraduate student in 1991-92, answer question 12. (Skip question 15.)
- Married now or will be a graduate/professional student in 1991-92, answer question 15. (Skip questions 12 through 14e.)

Unmarried Undergraduate Students Only

12. Did your parents claim you as an income tax exemption?

	Yes	No
— in 1989?	☐	☐
— in 1990?	☐	☐

If you answered "Yes" to either year in question 12, go to Section C and fill out the GOLD and the WHITE areas on the rest of the form. (Skip questions 13 through 15.)

If you answered "No" to both years in question 12, answer question 13 below.

13. Beginning with the 1987-88 school year, you first received Federal student aid... *(Check only one box: a, b, c, d, or e. See instructions on page 3.)*

a. ☐ in the 1987-88 school year. (Answer 14a below. Skip 14b, 14c, 14d, and 14e.)
b. ☐ in the 1988-89 school year. (Answer 14b below. Skip 14a, 14c, 14d, and 14e.)
c. ☐ in the 1989-90 school year. (Answer 14c below. Skip 14a, 14b, 14d, and 14e.)
d. ☐ in the 1990-91 school year. (Answer 14d below. Skip 14a, 14b, 14c, and 14e.)
e. ☐ in neither a, b, c, or d. (Answer 14e below. Skip 14a, 14b, 14c, and 14d.)

14a. Did you have total resources of $4,000 or more, not including parents' support

	Yes	No
— in 1985?	☐	☐
— in 1986?	☐	☐

14b. Did you have total resources of $4,000 or more, not including parents' support

	Yes	No
— in 1986?	☐	☐
— in 1987?	☐	☐

14c. Did you have total resources of $4,000 or more, not including parents' support

	Yes	No
— in 1987?	☐	☐
— in 1988?	☐	☐

14d. Did you have total resources of $4,000 or more, not including parents' support

	Yes	No
— in 1988?	☐	☐
— in 1989?	☐	☐

14e. Did you have total resources of $4,000 or more, not including parents' support

	Yes	No
— in 1989?	☐	☐
— in 1990?	☐	☐

- If you answered "No" to either year in question 14a, 14b, 14c, 14d, or 14e, go to Section C and fill out the GOLD and the WHITE areas on the rest of the form.
- If you answered "Yes" to both years in question 14a, 14b, 14c, 14d, or 14e, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form.

Married or Graduate/Professional Students Only

15. Will your parents claim you as an income tax exemption in 1991?

Yes	No
☐	☐

If you answered "Yes" to question 15, go to Section C and fill out the GOLD and the WHITE areas on the rest of the form.

If you answered "No" to question 15, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form.

ATTACHMENT VIII

GOLDEN FLOW
166 Berry Street
Brooklyn, New York
(718) 963-2000

June 12, 1990

TO WHOM IT MAY CONCERN:

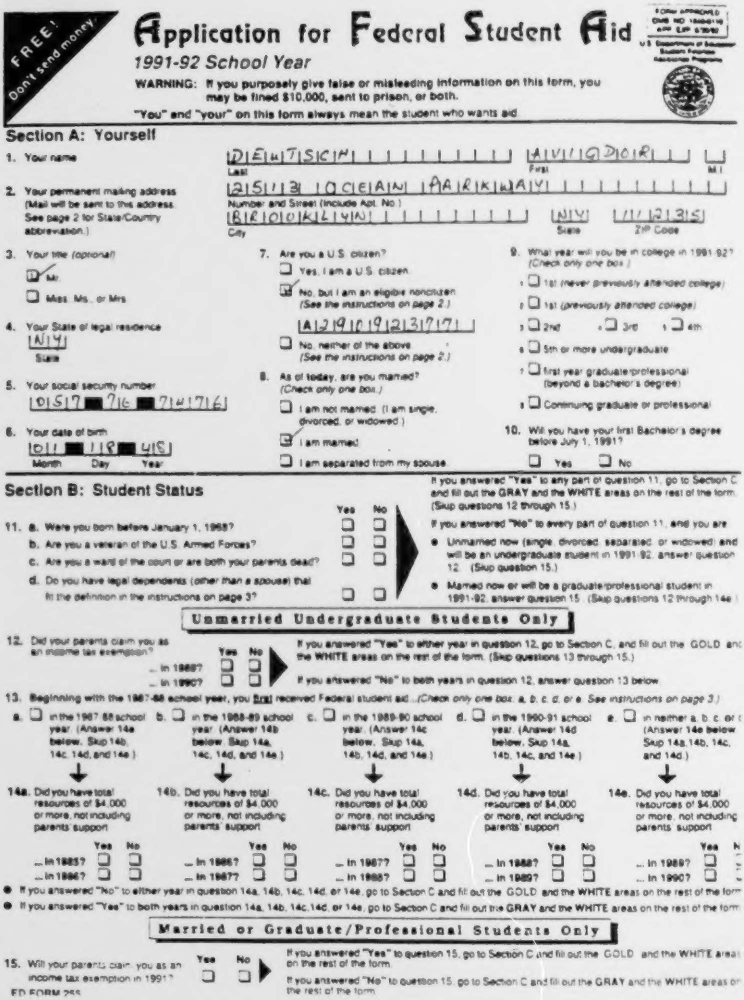
Dear Sir/Madam:

This letter confirms that Mr. Avigdor Deutsch worked in our company as a Supervisor and was paid salaries in the amount of $7,000.00 for the year 1989,.

Very truly yours,

Jacob Goren

BEST COPY AVAILABLE



FREE! Don't send money.

Application for Federal Student Aid

1991-92 School Year

WARNING: If you purposely give false or misleading information on this form, you may be fined $10,000, sent to prison, or both.

"You" and "your" on this form always mean the student who wants aid.

FORM APPROVED
OMB NO. 1840-0110
APP. EXP. 6/30/92

U.S. Department of Education
Student Financial
Assistance Programs

Section A: Yourself

1. Your name
DEUTSCH (Last) AVIGDOR (First) (M.I.)

2. Your permanent mailing address (Mail will be sent to this address. See page 2 for State/Country abbreviation.)
2513 OCEAN PARKWAY (Number and Street (Include Apt. No.))
BROOKLYN (City) NY (State) 11235 (ZIP Code)

3. Your title *(optional)*
☑ Mr.
☐ Miss, Ms., or Mrs.

4. Your State of legal residence
NY (State)

5. Your social security number
057 [redacted] 76 [redacted] 7476

6. Your date of birth
01 [redacted] 18 [redacted] 45
Month Day Year

7. Are you a U.S. citizen?
☐ Yes, I am a U.S. citizen.
☑ No, but I am an eligible noncitizen. *(See the instructions on page 2.)*
A29092377
☐ No, neither of the above. *(See the instructions on page 2.)*

8. As of today, are you married? *(Check only one box.)*
☐ I am not married. (I am single, divorced, or widowed.)
☑ I am married.
☐ I am separated from my spouse.

9. What year will you be in college in 1991-92? *(Check only one box.)*
1 ☐ 1st *(never previously attended college)*
2 ☐ 1st *(previously attended college)*
3 ☐ 2nd 4 ☐ 3rd 5 ☐ 4th
6 ☐ 5th or more undergraduate
7 ☐ first year graduate/professional (beyond a bachelor's degree)
8 ☐ Continuing graduate or professional

10. Will you have your first Bachelor's degree before July 1, 1991?
☐ Yes ☐ No

Section B: Student Status

	Yes	No
11. a. Were you born before January 1, 1968?	☐	☐
b. Are you a veteran of the U.S. Armed Forces?	☐	☐
c. Are you a ward of the court or are both your parents dead?	☐	☐
d. Do you have legal dependents (*other than a spouse*) that fit the definition in the instructions on page 3?	☐	☐

If you answered "Yes" to any part of question 11, go to Section C and fill out the **GRAY** and the **WHITE** areas on the rest of the form. (Skip questions 12 through 15.)

If you answered "No" to every part of question 11, and you are

- Unmarried now (single, divorced, separated, or widowed) and will be an undergraduate student in 1991-92, answer question 12. (Skip question 15.)
- Married now or will be a graduate/professional student in 1991-92, answer question 15. (Skip questions 12 through 14e.)

Unmarried Undergraduate Students Only

12. Did your parents claim you as an income tax exemption?

	Yes	No
... in 1989?	☐	☐
... in 1990?	☐	☐

If you answered "Yes" to either year in question 12, go to Section C, and fill out the GOLD and the **WHITE** areas on the rest of the form. (Skip questions 13 through 15.)

If you answered "No" to both years in question 12, answer question 13 below.

13. Beginning with the 1987-88 school year, you first received Federal student aid... *(Check only one box: a, b, c, d, or e. See instructions on page 3.)*

a. ☐ in the 1987-88 school year. (Answer 14a below. Skip 14b, 14c, 14d, and 14e.)
b. ☐ in the 1988-89 school year. (Answer 14b below. Skip 14a, 14c, 14d, and 14e.)
c. ☐ in the 1989-90 school year. (Answer 14c below. Skip 14a, 14b, 14d, and 14e.)
d. ☐ in the 1990-91 school year. (Answer 14d below. Skip 14a, 14b, 14c, and 14e.)
e. ☐ in neither a, b, c, or d. (Answer 14e below. Skip 14a, 14b, 14c, and 14d.)

14a. Did you have total resources of $4,000 or more, not including parents' support

	Yes	No
... in 1985?	☐	☐
... in 1986?	☐	☐

14b. Did you have total resources of $4,000 or more, not including parents' support

	Yes	No
... in 1986?	☐	☐
... in 1987?	☐	☐

14c. Did you have total resources of $4,000 or more, not including parents' support

	Yes	No
... in 1987?	☐	☐
... in 1988?	☐	☐

14d. Did you have total resources of $4,000 or more, not including parents' support

	Yes	No
... in 1988?	☐	☐
... in 1989?	☐	☐

14e. Did you have total resources of $4,000 or more, not including parents' support

	Yes	No
... in 1989?	☐	☐
... in 1990?	☐	☐

- If you answered "No" to either year in question 14a, 14b, 14c, 14d, or 14e, go to Section C and fill out the GOLD and the **WHITE** areas on the rest of the form.
- If you answered "Yes" to both years in question 14a, 14b, 14c, 14d, or 14e, go to Section C and fill out the **GRAY** and the **WHITE** areas on the rest of the form.

Married or Graduate/Professional Students Only

15. Will your parents claim you as an income tax exemption in 1991? Yes ☐ No ☐

If you answered "Yes" to question 15, go to Section C and fill out the GOLD and the WHITE areas on the rest of the form.

If you answered "No" to question 15, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form.

ED FORM 255

BEST COPY AVAILABLE

Application for Federal Student Aid

1990-91 School Year

FORM APPROVED
OMB NO. [illegible]
[illegible]

U.S. Department of Education
Student Financial
Assistance Programs

WARNING: If you purposely give false or misleading information on this form, you may be fined $10,000, sent to prison, or both.

"You" and "your" on this form always mean the student who wants aid.

Section A: Yourself

1. Your name: DEUTSCH (Last) AVIGDOR (First) (M.I.)
2. Your permanent mailing address (Mail will be sent to this address. See page 2 for State/Country abbreviation.)
   2513 OCEAN PARKWAY (Number and Street (include Apt. No.))
   BROOKLYN (City) NY (State) 11235 (ZIP Code)
3. Your title *(optional)*
   - ☑ Mr.
   - ☐ Miss, Ms., or Mrs.
4. Your State of legal residence: NY (State)
5. Your social security number: 057 [redacted] 76 [redacted] 7476
6. Your date of birth: 01 [redacted] 18 [redacted] 48 (Month / Day / Year)
7. Are you a U.S. citizen?
   - ☐ Yes, I am a U.S. citizen.
   - ☑ No, but I am an eligible noncitizen. *(See the instructions on page 2.)* A29092377
   - ☐ No, neither of the above. *(See the instructions on page 3.)*
8. As of today, are you married? *(Check only one box.)*
   - ☐ I am not married. (I am single, divorced, or widowed.)
   - ☑ I am married.
   - ☐ I am separated from my spouse.
9. What year will you be in college in 1990-91? *(Check only one box.)*
   - ☐ 1st *(never previously attended college)*
   - ☐ 1st *(previously attended college)*
   - ☐ 2nd ☐ 3rd ☐ 4th
   - ☐ 5th or more undergraduate
   - ☐ first year graduate/professional (beyond a bachelor's degree)
   - ☐ Continuing graduate or professional
10. Will you have your first Bachelor's degree before July 1, 1990?
    ☐ Yes ☐ No

48
18 66

Section B: Student Status

	Yes	No
11. a. Were you born before January 1, 1967?	☐	☐
b. Are you a veteran of the U.S. Armed Forces?	☐	☐
c. Are you a ward of the court or are both your parents dead?	☐	☐
d. Do you have legal dependents *(other than a spouse)* that fit the definition in the instructions on page 3?	☐	☐

If you answered "Yes" to any part of question 11, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form. Skip questions 12 through 15.

If you answered "No" to every part of question 11, and you are:

- Unmarried now (single, divorced, separated, or widowed) and will be an undergraduate student in 1990-91, answer question 12. (Skip question 15.)
- Married now or will be a graduate/professional student in 1990-91, answer question 15. (Skip questions 12 through 14d.)

Unmarried Undergraduate Students Only

12. Did your parents claim you as an income tax exemption?

	Yes	No
. . . in 1988?	☐	☐
. . . in 1989?	☐	☐

If you answered "Yes" to either year in question 12, go to Section C and fill out the BLUE and the WHITE areas on the rest of the form. (Skip questions 13 through 15.)

If you answered "No" to both years in question 12, answer question 13 below.

13. Beginning with the 1987-88 school year, you first received Federal student aid... *(Check only one box: a, b, c, or d. See instructions on page 3.)*
    - a. ☐ In the 1987-88 school year. (Answer 14a below. Skip questions 14b, 14c, and 14d.)
    - b. ☐ In the 1988-89 school year. (Answer 14b below. Skip questions 14a, 14c, and 14d.)
    - c. ☐ In the 1989-90 school year. (Answer 14c below. Skip questions 14a, 14b, and 14d.)
    - d. ☐ In neither a, b, or c. (Answer 14d below. Skip questions 14a, 14b, and 14c.)

14a. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
. . . in 1985?	☐	☐
. . . in 1986?	☐	☐

14b. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
. . . in 1986?	☐	☐
. . . in 1987?	☐	☐

14c. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
. . . in 1987?	☐	☐
. . . in 1988?	☐	☐

14d. Did you have total resources of $4,000 or more, not including parents' support?

	Yes	No
. . . in 1988?	☐	☐
. . . in 1989?	☐	☐

- If you answered "No" to either year in question 14a, 14b, 14c, or 14d, go to Section C and fill out the BLUE and the WHITE areas on the rest of the form.
- If you answered "Yes" to both years in question 14a, 14b, 14c, or 14d, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form.

Married or Graduate/Professional Students Only

15. Will your parents claim you as an income tax exemption in 1990? Yes ☐ No ☐

If you answered "Yes" to question 15, go to Section C and fill out the BLUE and the WHITE areas on the rest of the form.

If you answered "No" to question 15, go to Section C and fill out the GRAY and the WHITE areas on the rest of the form.

ED FORM 255

BEST COPY AVAILABLE

BAIS FRUMA
4601 - 14TH AVENUE
BROOKLYN, N.Y. 11219

PERSONAL DATA FORM

Last Name DEUTSCH Social Security No 0|5|7|7|6|7|4 7|c

First Name AVIGDOR M ☑ F ☐ First Name (Hebrew) ____

Spouse First Name English LEA Hebrew ____

Address 2513 OCEAN PARKWAY City BROOKLYN State N.Y. Zip 11235

Date of birth 0|1-1|8-4|6 Place of birth (Country) HUNGARY

U.S. Citizen? Yes ☐ No ☑ Green Card? Yes ☑ No ☐ A# A 29 092 377

Name of High School (Yeshiva) attended ____

Address ____ From ____ To ____ Year Graduated ____

Single ____ Married ✓ Widowed ____ Divorced ____ Separated ____

Do you wish to apply for financial aid? Yes ☐ No ☐

How many dependent children do you have? ____ How many last year? ____

Were you ever enrolled in the Federal Pell Grant Program? Yes ____ No ____

Through which institution? ____ Do you have G.S.L.? ____

Are any of your family members partaking in the Federal Pell Grant Program? Yes ____ No ____

If "Yes", how many? ____ Through which institution? ____

DEPENDENT STUDENTS

If you are single and your parents support you what is their income? ____

Did they file an income tax return? ____ How many dependents did they claim? ____

If they did not file, list their income for 1989.

Salary ____ Welfare ____ Social Security ____ Kollel ____

Section 8 ____ Food Stamps ____ Other ____

What are your parents names? Father ____ Mother ____

Parents address ____ City ____ State ____ Zip ____

Parents present marital status? ☐ Single ☐ Married ☐ Widowed ☐ Divorced ☐ Separated

How old is the older parent? ____

Do they own a house/co-op? ____ If "Yes" what is its current value? ____

What is the mortgage balance? ____ If "No" what is its annual rent? ____

Did your parents have tuition expenses for their children in elementary or high school? ____

If "Yes" how much did they pay ____

Did your parents have medical expenses not covered by Insurance? ____

What are their cash savings and investments? ____

How much savings do you have? ____

Do your parents own a business? ____ If "Yes" how much is it worth? ____

Did you have any income besides your parents support? ____ How much did you earn? ____

Will your parents claim you as a dependent on their 1990 tax return? Yes ___ or No ___ If "Yes" attach parents form 1989

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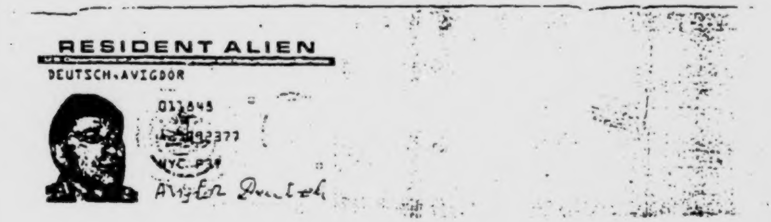
VIII



RESIDENT ALIEN

DEUTSCH.AVIGDOR

011845

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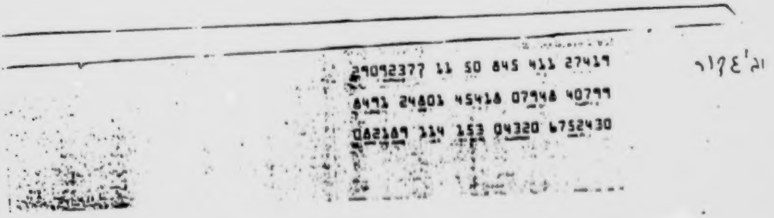
NYC P39

Avigdor Deutsch



29092377 11 50 845 411 27419

8491 24801 45418 07948 40799

082189 314 153 04320 6752430

אביגדור

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ATTACHMENT IX

GOLDEN FLOW
166 Berry Street
Brooklyn, New York
(718) 963-2000

October 4, 1991

TO WHOM IT MAY CONCERN:

Dear Sir/Madam:

This letter confirms that Mr. Avigdor Deutsch worked in our company as a Supervisor and was paid salry in the amount of $7,000.00 for 1990.

Very truly yours,

Jacob Goren

KANSAS INDEPENDENT COLLEGE ASSOCIATION
515 Capitol Federal Building, 700 Kansas Avenue, Topeka, Kansas 66603
Telephone (913) 235-9877 · FAX (913) 235-1437

ROBERT N. KELLY, *Executive Director*

Senate Permanent Subcommittee on Investigations

EXHIBIT # 90

October 26, 1993

The Honorable Sam Nunn
Chairman
United State Senate
Permanent Subcommittee on Investigations
100 SROB
Washington D.C. 20510

Dear Senator Nunn:

Along with many of my colleagues in higher education, I am pleased that your Subcommittee on Investigations is going to study the Pell Grant program. The subcommittee provided helpful information to policy makers and higher education leaders through its review of abuses in the student loan programs. It is probable you will have a similar constructive effect on the Pell Grant program.

Even more so than the student loan programs, the Pell Grant program has a built-in potential for abuse. There is no obligation to repay which created the default data trail of student loan problems. The Pell Grant program contains many of the problem areas of the student loan programs (e.g. unsatisfactory programs, unqualified students, falsified records, inadequate accreditation) without the excessive complexity.

The Pell Grant area of abuse that I would like to highlight involves the recipient at a low-cost institution often receiving funds far in excess of tuition, fees, and other educational expenses. A full-time community college student could have annual educational expenses of $800 a year while receiving a Pell Grant of $2,300, a difference of $1,500. This amount represents a significant incentive to students to abuse the system. Anecdotal evidence that this is occurring is common place; real data are harder to find.

However, ED's own study of why last year's shortfall in the Pell appropriation occurred sheds light on this abuse. Although the ED study concluded that the shortfall was caused almost entirely by economic factors with the time lag on estimating and an overall increase in enrollment also cited, there were other results from that study that deserve consideration.

BAKER UNIVERSITY / BENEDICTINE COLLEGE / BETHANY COLLEGE / BETHEL COLLEGE / CENTRAL COLLEGE / DONNELLY COLLEGE / FRIENDS UNIVERSITY / HESSTON COLLEGE / KANSAS NEWMAN COLLEGE / KANSAS WESLEYAN UNIVERSITY / McPHERSON COLLEGE / MID AMERICA NAZARENE COLLEGE / OTTAWA UNIVERSITY / SAINT MARY COLLEGE / SOUTHWESTERN COLLEGE / STERLING COLLEGE / TABOR COLLEGE

These findings are: (a) there was no indication that the Pell population became poorer in recent years; (b) the Pell enrollment increases were concentrated at public two-year institutions and barely increased at proprietary schools; and (c) the increase in applications occurred in unusually large numbers at the end of the application period. These three facts should cause pause before accepting the study's economic condition conculsion. If economic factors are the most important: why did the applicant pool not get poorer, why did proprietary school applications not increase while community college enrollments increased dramatically, and why did the large number of late applications occur when economic conditions did not worsen during the year? The motivation would appear to be the opportunity to receive cash, rather than an education. In addition, it would be helpful to learn whether these unprecedented late community college applicants were concentrated at specific colleges. If so, admissions policies of these colleges deserve scrutiny.

A related problem is determining whether Pell Grants at low-cost colleges are being used to further the education of students. The open-endedness of Pell Grant eligibility might encourage students to enroll for numerous semesters, at a part-time or full-time status, without any intention of matriculating. Loose "ability-to-benefit" provisions coupled with relaxed satisfactory progress rules could result in long-term Pell Grant eligibility with minimal educational gains.

If your study indicates that the wealth of anecdotal evidence concerning individuals using the Pell Grant program to obtain cash is true, I would hope that you recommend to change the program to emphasize meeting educational expenses first. Possibilities could include: (a) students having to complete successfully a certain number of credit hours before being allowed to receive additional Pell Grant funds in excess of direct educational expenses; (b) students receiving monthly disbursements of any Pell Grant funds in excess of direct education costs; and (c) students being limited to twelve semesters of eligibility at four-year institutions and six semesters at two year institutions. A more radical approach would change Pell Grants into a campus-based program where the allocation formula would include matriculation rates as a criterion.

I appreciate the opportunity to share with you this one area of likely Pell Grant abuse. Please contact me, if you have any questions or would like to discuss this or other issues.

Sincerely yours,

Robert N. Kelly

Robert N. Kelly
Executive Director
RNK/csr

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 91

BRUSTEIN & MANASEVIT
ATTORNEYS AT LAW
3105 SOUTH STREET, N.W.
WASHINGTON, D.C. 20007
(202) 965-3652
FAX # (202) 965-8913

October 27, 1993

Senator Sam Nunn
Chairman,
Senate Permanent Subcommittee on Investigations
of the Committee on Governmental Affairs
SR-100 Russell Senate Office Building
1st & C Streets, N.E.
Washington, D.C. 20510

RE: STATEMENT OF THE COUNCIL OF JUDAIC SCHOOLS

Dear Senator Nunn:

The Council of Judaic Schools requests that this statement be entered as part of the formal record of the Hearings of the Permanent Subcommittee on Investigations Concerning Abuses in the Federal Pell Grant Program. We also request that it be read aloud at the October 28, 1993 hearing, prior to its entrance into the record.

On October 18, 1993, the U.S. Department of Education issued identical letters to more than 20 Orthodox Jewish institutions located in New York City. These letters questioned the propriety of each schools' continued eligibility to participate in student financial assistance programs on the basis of their identification as "avocational" by their accrediting agency.

In response to this letter of October 18, more than half of these schools have formed the Council of Judaic Schools (the Council) to respond collectively to what we believe is a severely misguided attempt by the Department of Education to terminate numerous post-secondary Judaic institutions from participation in the Title IV programs due to the alleged misdeeds of a few individuals and institutions.

The Department has previously reviewed each of the Council schools and has determined that they all meet the eligibility criteria for participation in federal student financial aid programs. Since the Council schools were first granted eligibility, the Department has been fully aware of the nature of the schools' programs and the nature of the credentials offered and has consistently considered the schools and their programs as eligible for participation in the Title IV programs. There have been no changes in recent years in the member schools' programs nor in the Department's eligibility criteria.

The eligibility regulations further require that institutions be accredited by a nationally recognized accrediting agency. Each of the Council schools is duly accredited by ACCET. The Department's letters of October 18, 1993 question this accreditation because ACCET has internally classified the member schools as avocational, leading the Department to conclude that such classification is intended to determine whether, under federal standards, the member schools provide training to prepare students for gainful employment in a recognized profession.

In a letter to the Department of Education dated August 25, 1993, ACCET quoted the text of a resolution adopted at its August 10-13, 1993 meeting. The text of that resolution states:

> [T]he [ACCET Accrediting] Commission has never considered such classifications [i.e. avocational/vocational] to be a prospective indicator of the institution's future application to the U.S. Department of Education for eligibility and certification for Title IV funding access nor the likelihood of the Department's approval of such an application.

The referenced paragraph confirms our understanding that while ACCET accreditation satisfies the requirement of the Higher Education Act and the Department's related regulations respecting accreditation "by a nationally recognized accrediting agency or association," ACCET's internal classification scheme has not been and is not intended to be dispositive of whether an institution meets any of the other eligibility requirements set forth in the HEA.

We are pleased with the Subcommittee investigations into the lax oversight and review procedures of the Department of Education. The Department's apparent poor management of the Pell Grant program has resulted in damages to everyone involved in Title IV; many truly needy students have received less funds than they are rightly entitled to and the reputations of many honest institutions have been questioned or inadvertently implicated. However, the Council of Judaic Schools is concerned that the Department should not be allowed to, once again, take the path of least work and least resistance.

Each of our Council schools is proud of its history and the educational services it provides. We have always approached our responsibilities to our students and to the federal government seriously and we are grateful that the Pell Grant program has enabled many of our communities' neediest students to receive an education which they would otherwise be unable to pursue. The problem is that the Department of Education, and perhaps the Subcommittee as well, is utilizing evidence submitted by a few individual institutions against all similarly situated Judaic institutions. The Council believes that the Department of

Education, through its letters of October 18, 1993, its actions thus far, and its anticipated testimony at the hearing, is tarnishing numerous quality institutions with a broad and sweeping stroke.

The Department's letter was dated October 18, 1993 and received by most of the institutions on October 19 or 20. Yet, before the institutions had even received notification of the Department's belief that a potential problem existed, the Department of Education released this information to the press. Numerous articles appeared in New York papers on October 18, 19 and 20 using language such as "fraud," "abuse" and "scam." And, on the October 20, as the schools were first receiving word of the with this potential problem, the newspapers were able to provide a list of the schools that had received the October 18, 1993 letter under a title "Feds see scam, pull rabbinic school funds." Additionally, Department officials overly inclusive made statements to the press. Most notably, David Longanecker, the Assistant Secretary for Post-secondary education stated, with regard to all 21 schools, "This clearly was a scam . . . It clearly was a way to rip off the federal government."

Obviously, we consider it an unfair and underhanded practice of the Department of Education to provide this information to the press before providing it to the schools. The Department's regulations specifically set forth the procedures which must be followed before an institution's eligibility to participate in any or all Title IV HEA programs may be terminated. Clearly these procedures should be followed before the institutions are tried in the press.

The Judaic Council is outraged by this behavior on the part of key Department officials. It is no secret that public perception is of great concern to everyone in this country. This is particularly true to religious minorities, especially one so foreign to most Americans as the ultra orthodox and Hasidic Jewish populations. We encourage the Subcommittee's continued review into the failures of the Department of Education. As long as the Department is permitted to characterize the offenses of some as the offenses of all, the work of honest institutions and organizations such as our members will be hindered.

Sincerely,

Leigh M. Manasevit
Counsel
Council of Judaic Schools

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 92

EDWARD M. KENNEDY, MASSACHUSETTS, CHAIRMAN

CLAIBORNE PELL, RHODE ISLAND
HOWARD M. METZENBAUM, OHIO
CHRISTOPHER J. DODD, CONNECTICUT
PAUL SIMON, ILLINOIS
TOM HARKIN, IOWA
BARBARA A. MIKULSKI, MARYLAND
JEFF BINGAMAN, NEW MEXICO
PAUL D. WELLSTONE, MINNESOTA
HARRIS WOFFORD, PENNSYLVANIA

NANCY LANDON KASSEBAUM, KANSAS
JAMES M. JEFFORDS, VERMONT
DAN COATS, INDIANA
JUDD GREGG, NEW HAMPSHIRE
STROM THURMOND, SOUTH CAROLINA
ORRIN G. HATCH, UTAH
DAVE DURENBERGER, MINNESOTA

NICK LITTLEFIELD, STAFF DIRECTOR AND CHIEF COUNSEL
SUSAN K. HATTAN, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON LABOR AND
HUMAN RESOURCES
WASHINGTON, DC 20510-6300

November 23, 1993

The Honorable Sam Nunn
Chairman
Permanent Subcommittee on Investigations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On October 27, during the course of my testimony before your Subcommittee, I stated that I understood that less than one-half of 1 percent of all Pell Grant funds was in question. You asked me to provide an analysis of the figure I cited. I am pleased provide that information for the record.

The day before the hearing (October 26), the Department of Education advised my staff that the 21 Yeshiva schools under investigation had received a total of $238 million in Pell Grant funds since the program began through the 1992-93 academic year.

The Department further indicated that Molloy College has received almost $6.7 million in Pell Grants for students enrolled in the Recent Immigrants associate degree program in question through the 1992-93 academic year.

Thus, in the investigation of the 21 Yeshivas and Molloy, approximately $245 million in Pell Grant funds have been called into question. This represents less than one-half of one percent of the total $64.2 million appropriated for Pell Grants over the program's history.

Warm regards.

Ever sincerely,

Claiborne Pell
Chairman
Subcommittee on Education,
Arts and Humanities

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 93

Responses to the
Additional Questions to
Assistant Secretary David A. Longanecker
for the
Permanent Subcommittee's
Hearing Record

January 1994

Nunn 1: This Subcommittee has, three years after its last investigation, once again found serious problems in the way the Department has managed the student financial assistance programs. Given the magnitude of those problems, how long will it be before the Department has these multi-billion-dollar programs under control?

We believe that significant progress has been made in the management of the student assistance programs. We are successfully implementing the Federal Direct Student Loan Program, which promises to be a significant reform in the way student loans are delivered. In addition to this reform, we are addressing the areas of gatekeeping, identifying high-risk schools, reducing duplication, increasing and improving program reviews and customer service, upgrading staff, developing an in-depth tracking system, and developing valid sampling techniques.

We are improving the integrity triad by: closely monitoring accrediting agencies that are failing to effectively identify and take corrective actions against problem schools; by developing a new system for identifying potential problem schools through using an expanded selection criteria process that evaluates weaknesses of institutions and their program administration; and in addition to developing an automated reimbursement payment system to closely monitor the expenditure of funds at institutions that are potential problem schools, we are studying the potential of an escrow system to monitor the loan funds at those same schools. Further, we have initiated steps to concentrate review activities and eliminate the time consuming activities at schools.

We are starting a customer service initiative to provide technical assistance to institutions, parents, students, and others. This service will be activated in all ten regions and headquarters. We will provide 1-800 telephone numbers for customers to call directly to speak with knowledgeable, professional staff who will have an interactive computer systems link with headquarters.

We are developing a training academy within the Institutional Participation and Oversight Service. This academy will improve the quality and effectiveness of our regional and headquarters staff. We will staff the academy with professional instructors/media specialists and experienced student financial assistance program professionals.

We are developing a tracking system to monitor, evaluate, and resolve critical areas within the Institutional Participation and Oversight Service. This system is designed to address situations before they become problems.

We are eliminating unnecessarily time-consuming, paper-intensive functions from the positions of our regional reviewers; adding specialized staff; and providing an interactive system for our review staff to follow cases and work with headquarters staff. We will be increasing the number of institutional reviews in 1994 by 33 percent.

We are concentrating our regional lender reviews in the areas where the heaviest concentration of funds exists. We will closely monitor guaranty agencies and servicers. Additionally, a system of statistical sampling will be implemented to ensure the validity of the sampling.

Many of these improvements are just now being implemented; thus we cannot yet fully assess their impact.

Nunn 2: The Pell Grant program was initially designed to assist financially needy undergraduate students in attaining an education. Over the years, the program has been expanded to cover vocational skills training, remedial education, English as a Second Language, and other types of education. As the Assistant Secretary, do you consider the goals of the Pell Grant program to be clear?

The purpose of the Pell Grant program is clear -- to provide educational access to financially needy students. Services and clientele have expanded over the years as the program began to meet the needs of students for vocational training, remedial education, English as a Second Language, and other types of education. While this expansion is not bad, it has led to diminished funding available for the original purpose of the Pell Grant program, and may beg the question of priorities. Perhaps there has not been clear consensus on this expansion nor on standards by which we assess the program; however, we intend to examine and address these concerns during phase II of the student aid reform. We, the Department and the Congress, need to work together to achieve such a consensus and establish performance standards for the program.

Nunn 3: The Staff has initiated an inquiry into the policy of providing Pell Grants to prisoners. They have found that incarcerated individuals at Federal and State prisons and local jails are using Pell Grants to attend classes. The Department of Education, in a letter to me, estimated conservatively that 25,000 prisoners receive Pell Grants each year. Clearly, educational opportunities for the incarcerated are a part of efforts to rehabilitate them. Do you have any thoughts as to whether or not the Pell Grant program is a proper vehicle for educating this segment of our society? Do you know if anyone has studied the feasibility of alternative financing, such as contracting with schools to offer instruction at our prisons and jails?

We believe that funding postsecondary education for incarcerated individuals is essential. Reduced recidivism, because educated former prisoners are more employable as a result of the education they received in prison, benefits the public by turning a tax liability into a tax paying citizen. We need to explore, however, whether the Pell Grant program is the most effective mechanism to do this. During phase II of the student aid reform, we will examine alternative mechanisms for funding postsecondary education for all students, including incarcerated individuals. Under a Department contract, the National Research Council recently published Preparing for the Workplace: Charting a Course for Federal Postsecondary Training Policy, which identifies five mechanisms to consider for financing postsecondary education:

- issuing federal vouchers that can be redeemed by the institutions in return for providing educational services -- the Pell Grant program fits into this category as it subsidizes education expenses up to the full face value of the grant awards issued;
- entering into contract agreements with private suppliers to provide training services;
- awarding grants to other levels of government or to private or nonprofit agencies to supply education services;
- providing training services directly to the public through government operated institutions; and
- making education expenditures or the interest on educational debt tax deductible for individuals or making the income of postsecondary institutions tax exempt.

As you know, prior to the 1992 Amendments to the Higher Education Act, there were no statutory provisions preventing incarcerated students from receiving Pell Grants. However, the Congress took appropriate steps in the 1992 Amendments to prevent potential abuse in this area and, for the first time, incarcerated students' eligibility for Pell Grants has been restricted beginning with the current (1993-1994) school year. Consequently, we have actual program data for this year that indicate the extent to which incarcerated students are participating in the Pell Grant program. As of mid-November, almost 2 million postsecondary students have received Pell Grants, totaling about $3.5 billion this year. About 16,500 of these recipients are incarcerated students, whose grants total $23 million.

For inmates pursuing postsecondary education, funding from the Federal Pell Grant program generally does not cover the total cost, but is critical to providing for the rehabilitation of these students. It is the primary source of funding for postsecondary educational programs in federal prisons. Many state correction systems contract with postsecondary or vocational institutions to provide education programs in the prisons. The Federal Pell Grant program is essential to the states being able to provide this rehabilitative activity. States currently contribute approximately $81 million per year to fund postsecondary education for incarcerated students.

Currently, the Federal Pell Grant Program offers only a portion of the funding available to educate incarcerated individuals. It is important to remember that many incarcerated individuals do not have the basic educational essentials, such as reading, writing, and arithmetic, to enter a postsecondary education environment. Much of the education that takes place in prisons is at the primary and secondary level and is funded by state and local agencies.

Nunn 4: A few weeks ago, the Department determined that thousands of students had received Pell Grants for more than 10 years. Some of them presumably did so during the period 1986-1992, when there was a limit on the number of years a person could receive Pell Grants. Who was supposed to monitor this? The Central Systems contractor or the school?

The 1986 Amendments to the Higher Education Act (P.L. 99-498, enacted October 17, 1986), for the second time in the program's history, established a limit on the number of years that a student could receive Pell Grant awards. Part A, Subpart 1, Section 411(c) "Period of Eligibility for Grants" stated that a student was eligible to receive Pell Grant awards for "the full-time equivalent of five academic years in the case of an undergraduate degree or certificate program normally requiring four years or less; six academic years in the case of an undergraduate degree or certificate program normally requiring more than four years... ." However, Section 401(b)(3) of the 1986 Amendments made Section 411(c) applicable "only to individuals who received a Pell Grant for the first time for a period of enrollment beginning on or after July 1, 1987." Each of the students determined to have received Pell Grants for more than ten years, therefore, were permanently exempt from the limitation on eligibility imposed by the 1986 Amendments, as they were recipients prior to the 1987-1988 school year. The 1992-1993 school year was the first year after the 1986 Amendments in which a student could have exhausted his or her eligibility (by attending school full-time and receiving a Pell Grant for the first time in 1987-1988 and in each subsequent year through 1991-1992).

During the 1992-1993 school year, both the Central Processing System (CPS) contractor and the schools monitored applicants' exhaustion of Pell Grant eligibility. The CPS used automated edits and flagged the Student Aid Report (SAR) of any student who appeared to have received the legal limit of Pell Grants. The CPS edits relied on the weekly transmissions of Pell Grant recipient data from the Pell Grant Recipient and Financial Management System (the system of records responsible for maintaining recipient information). The schools used the financial aid transcript information, or their own records, to supplement or override the SARs that were flagged with comments generated by the CPS automated edits. Financial Aid Administrators (FAA) had the authority to waive the limit on the number of Pell Grants a student could receive in cases of undue hardship, including specifically the death of a relative or student illness/injury as well as any other special circumstances as determined by the school. Remedial or non-credit course work did not count towards the limit, up a to maximum of one year.

In the 1992-1993 Title IV Central Processing System:

- 14,171 applicant transactions were rejected for receiving five full years of awards
- 6,812 of the rejected applicant transactions were overridden by financial aid administrators

- there were 9,506 system-generated transactions for previously rejected applicants, whose award usage dropped below five

- there were 125,288 applicant transactions receiving warnings for four full years of awards, but less than five

The 1992 Amendments to the Higher Education Act (P.L. 102-325, enacted July 23, 1992) eliminated the limit on the number of years students were eligible for Pell Grant awards.

The first time a limit was placed on the length of eligibility was in the 1972 Amendments to the Higher Education Act (P.L. 92-318, enacted June 23, 1972). The 1972 Amendments authorized implementing the Basic Educational Opportunity Grant (now the Federal Pell Grant) program. One of the program's initial provisions was limiting the length of time students could receive grants. The program successfully developed, implemented, and operated these requirements in the 1978-1979 through 1980-1981 school years. The 1980 Amendments to the Higher Education Act (P.L. 96-374, enacted October 3, 1980 eliminated this limit on eligibility length. From 1981-1982 through 1991-1992, no tracking on the number of years students received Pell Grant awards was required.

We now have reports on the number of students who received Pell Grant awards for extended periods of time, as well as the names of those institutions that showed up most consistently as having students receiving Pell Grant awards for extended periods of time. We are reviewing some of these institutions to assess whether this circumstance reflects problems at these schools.

Nunn 5: The Subcommittee Staff and the Department have spoken with the student who appears to have received a Pell Grant for more consecutive years than anyone else in the country - for at lease 17 or 18 years. Let's call her Mrs. Smith. Mrs. Smith has attended three postsecondary schools, two- and four-year institutions. She has received Pell Grants, State aid, and student loans. She told the Staff that she has $22,000 in guaranteed student loans. A review of her transcripts shows multiple failures and withdrawals. Now, isn't it true that an enrolled student does not have to start paying back a student loan while he or she is enrolled? Does that give them an incentive to stay enrolled in programs at Government expense, despite any chance of academic progress? Could it be that these worthy programs have, in fact, gotten someone into more financial difficulty than they were in to begin with?

It is true that a borrower is eligible for a deferment on repayment of his/her loan if he/she maintains student status -- that is, he/she remains enrolled on at least a half-time basis -- and is making satisfactory academic progress, as defined by the institution. You are correct that it is conceivable that deferring repayment might provide borrowers an incentive to remain enrolled at institutions. However, the vast majority of borrowers do not find deferment an incentive to remain in school indefinitely, as they are eager to complete their programs of study, find employment, and limit their indebtedness.

It is conceivable that these worthy programs have gotten some students into financial difficulty, in particular borrowers who do not complete their programs of study and/or cannot find employment or means to repay their loans. However, such borrowers are far outweighed by borrowers who are benefitted by the program, who do complete their studies, find employment, and are able to repay their loans. To help minimize undue hardship and indebtedness for the borrower, the Higher Education Act of 1965, as amended, limits the total amount one individual can borrow over time through the guaranteed student loan programs and requires that each borrower be counseled about his/her indebtedness. The limit under the Federal Family Education Loan Program is currently $22,000 for those pursuing undergraduate degrees. In the case of Mrs. Smith, she reached this limit and exhausted her eligibility to borrow any more federal guaranteed student loans.

It is also worth noting that one of the most important things we can do to protect students is in the area of gatekeeping. By preventing poor quality institutions from participating in the student aid programs, we protect student borrowers and their investments in education.

Nunn 6: The Higher Education Act contains provisions for stopping the student loan participation at schools which have high default rates. However, even when the Department cuts them off from the loan programs, yet we continue to allow the schools to participate in the Pell Grant program. What are your thoughts on this policy?

Under current law [section 435(a)(2)(B) of the HEA], the threshold for removing the eligibility of schools to participate in the Federal Family Education Loan (FFEL) programs is three consecutive years of cohort default rates of 25 percent or greater, effective with the release of the fiscal year 1992 cohort default rates in July 1994. The three years that will be considered are 1990, 1991, and 1992. The threshold percentages have been decreasing yearly.

The Department also has regulations [34 CFR 668.15(b)(1)] providing for the "Limitation, Suspension or Termination" (LST) of schools from all Title IV programs, including the Pell Grant program, based on high default rates. The threshold for such LST action is a fiscal year 1992 cohort default rate over 45 percent, or a rate over 40 percent that was not reduced by five percent from the previous year's rate. That threshold rate has been decreasing yearly. Unlike the statutory three-year threshold requirement for removing schools from the loan programs, the threshold for LST is a yearly rate.

A school's only valid defense to such an LST action is a clear demonstration that the school acted diligently to implement the default reduction measures of 34 CFR Part 668, Appendix D. The Department has initiated a number of LST actions based either in whole or in part on high default rates.

Thus, the Department already has the authority to terminate schools from the Pell Grant program based on high default rates. However, unlike removing schools from the loan programs, posthaste, based on high default rates, schools have full due process rights before an LST action can be imposed for high default rates. This makes such enforcement actions cumbersome, lengthy, labor intensive, and costly. Sanctions are not imposed as quickly as we would like because we are gridlocked by the required appeals processes. In addition, schools that can afford to prolong the appeal process through lengthy litigation, do just that. In most of these cases, larger sums of Title IV funding are at stake and the schools, given the gravity of statutory or regulatory violations, will dispute vigorously their potential limitation, suspension, or termination from the programs.

From a compliance standpoint, the biggest difference between loan and grant programs is that students will complain about schools much more vociferously once they learn they have to pay back their loans. This is one reason why loan program abuses have been easier to detect in the loan programs. Students rarely complain about schools when the abuses are in the grant programs because the students do not perceive any economic losses.

Schools have argued, and some studies have shown, that high default rates are caused by the economic conditions of their students, rather than by the lack of adequate administration or quality education. In this vein, Congress has refrained from providing for terminating institutions from all programs based on high default rates. The exemptions from sanctions provided to historically black and tribal institutions demonstrate Congress' reluctance to use high default rates as the sole measure of a school's administrative capability.

In the long term, perhaps a more effective way of addressing our concerns regarding institutional participation in the Pell Grant program is with better performance standards, thus enabling us to better assess quality at these institutions and improve the chance for success of loan and grant recipients.

Nunn 7: Does anyone -- the Department, the accreditors, or the States -- evaluate the amount of tuition charged for schools you allow to participate in the student aid programs? It seems that, time and time again, we find evidence that schools set their tuition to enable their students to maximize the receipt of available student aid. How widespread is this practice? Does it involve all sectors of the higher education community?

Some institutional accrediting agencies question an institution about its tuition when it appears to be too high, but most agencies lack specific standards regarding tuition and fees. Similarly, some states examine the tuition and fees charged by schools within their jurisdiction. The practice of evaluating an institution's tuition, however, is not widespread at present. This situation will change now that the 1992 Amendments to the Higher Education Act have been enacted. It should be noted that as a result of the 1992 Amendments, institutions are now prohibited from participating in the Title IV programs if more than 85 percent of their total revenue comes from Title IV funds. Also, the roles of accrediting agencies and states have been expanded as follows.

Accrediting agencies. Under the proposed regulations implementing the 1992 Amendments governing accrediting agencies, agencies will be required to have standards that assess an institution's program length, as well as tuition and fees, in relation to the subject matters taught and the objectives of the degrees or credentials offered. These standards will take into account such factors as program objectives and content, the types and locations of instructional delivery, the knowledge and skills necessary for students to reach competence in the field being taught, generally accepted practices in higher education and, for any prebaccalaureate vocational education program, consideration of the remuneration that can reasonably be expected by students who complete the program. Agencies will also be required to establish minimum and maximum program lengths for all prebaccalaureate vocational education programs.

States. Under the State Postsecondary Review Program established by the 1992 Amendments, a State Postsecondary Review Entity (SPRE) will evaluate tuition and fees charged by an institution triggered for review, using special review standards developed by the SPRE in consultation with the institutions in the state. If the stated objective of the program is to prepare students for employment, the SPRE will examine the relationship of the tuition and fees charged to the remuneration that can be reasonably expected by students who complete the program. The SPRE will also examine the relationship of the program (including the appropriateness of its length) to providing the student with quality training and useful employment in recognized occupations in the state.

At present, we do not know how widespread the practice is of setting tuition at levels that allow students to maximize the amount of student aid they receive. However, one of the criteria for a SPRE review of an institution is if two-thirds or more of its education and general expenditures are derived from Title IV funds. The Department will begin shortly to collect information that will allow it to determine which institutions meet this review criteria.

This information should provide a basis for estimating how widespread the practice is of setting tuition at maximum student aid levels.

Nunn 8: This Subcommittee has, through investigations in the 1970s, in 1989-1991, and now in 1993, found serious problems in the Department's management of the student aid programs. You and Secretary Riley are committed to cleaning up the programs. What can the Congress do to help you? What tools do you need to turn this problem around?

We appreciate your concern and interest. I can happily report that we are currently undertaking a number of improvements, including: identifying accrediting agencies that are failing to perform their functions effectively and monitoring their operation; developing a new system of identifying potential problem schools through using an expanded selection criteria process that evaluates weaknesses of institutions and their program administration; developing an automated reimbursement payment system to monitor closely the expenditure of funds at institutions that are potential problem schools; providing technical assistance to institutions, parents, students, and others; and developing a training academy within the Institutional Participation and Oversight Service for staff members.

The 1992 Amendments to the Higher Education Act have given us several new tools that we are beginning to implement. Additionally, the Department requested technical amendments to further strengthen our hand. This package included language to prohibit servicing appeals by institutions with high cohort default rates and language to protect strengthening of the financial responsibility standards for institutions. The final resolution of this package was not totally satisfactory to the Department and I am sure that as implementation is carried out, especially in gatekeeping, we will discover other areas in which we might need your help. We appreciate your willingness to help and we will not hesitate to seek your assistance as such needs become clear.

Nunn 9: The Department of Education has the authority to charge participating schools a fee for certification and eligibility applications. Does it do so?

The 1992 Amendments to the Higher Education Act granted the Department the authority to charge schools participating in the Pell Grant program an application fee for certification and eligibility. We do not currently exercise this option; however, we might explore it in the future.

Nunn 10: In 1992, the Congress amended the Higher Education Act to include integrity provisions in the student aid programs. Did we go far enough? Are there procedural problems you have encountered that we need to address?

There are some procedural problems with the integrity provisions of the 1992 Amendments. The law requires that regulations for the Part H integrity provisions be subject to negotiated rulemaking. While negotiated rulemaking leads to better rules in general, it assumes consensus in a nonconsensus environment, which breeds conflict and takes a long time. Overall, the law strengthened considerably the integrity triad functions; however, in several cases the functions of the accrediting agencies, states, and other triad participants are redundant and overlapping.

Further, there is a procedural problem in the technical amendment governing accrediting agencies. The technical amendments removed the requirement that agencies whose accreditation enables institutions to participate in non-HEA programs must have standards assessing student achievement. This is inconsistent with part H, subpart 2 of the HEA, which states that accrediting agencies in general must have standards for measuring student achievement. While the technical amendment only applies to accrediting agencies that do not open a "gate" to federal student aid, it nevertheless weakens the integrity provisions by negating the importance of assessing student outcomes as a measure of the reliability of an accrediting agency as to the quality of education or training offered by institutions it accredits. It also creates a double standard: assessment of student achievement is only important if you accredit for Title IV purposes.

With regard to the default reduction initiative, the Department has encountered major obstacles in enforcing the cohort default rate penalty because institutions have alleged improper servicing and collection of loans as a basis for contesting the accuracy of cohort default rate calculations. The recently passed technical amendments help to some extent in that they reverse the effect of certain judicial interpretations. However, the amendments do not resolve certain basic issues -- what constitutes "improper" servicing and how it is proven -- that have resulted in court decisions restricting the Department's ability to sanction high default schools.

A number of the new provisions should help in the compliance-monitoring effort. Particularly useful are the eligibility and certification changes. Offices within the gatekeeping area are working closely on the new provisional certification process, and are committed to arranging reviews at provisional schools before they become permanent participants.

Also, significant program review deficiencies will be shared with accrediting bodies and state postsecondary agencies to facilitate their broadened role in institutional review. Additional integrity provisions that should be very useful are the authorities for strengthened financial monitoring and for establishing standards for third-party servicers.

Nunn 11: The Department of Health and Human Services recently published a list, in the Federal Register, of doctors who had defaulted on their student loans. Many newspapers then published the names of the doctors. Now, I know there are too many defaulters of guaranteed student loans to publish their names, but have you considered publishing a list of schools which you terminate from the program?

I do not believe that this has been considered, but I have no objection to this proposal as termination actions are public matters. However, I doubt that publishing the names of terminated schools would have the same effect as publishing the names of individuals. The intended purpose of publishing the individuals' names is to embarrass these people and pressure them into repaying their loans. In the case of terminated schools, many of them are now closed, and thus publishing their names will accomplish nothing, whether the names are published in the Federal Register or elsewhere.

While we do not publish the names of schools that have been terminated, we do hold a press conference and make available the list of institutions and their cohort default rates each year. Schools can lose their eligibility to participate in the Federal Family Education Loans program if they have cohort default rates of 30 percent or greater for three consecutive fiscal years.

Nunn 12: The Subcommittee Staff was told that the Department is still unable to review and audit closed schools to determine if a Federal liability exists at the school. In addition to any Federal liability, the Staff was told, students are left in a limbo status. What is the current status of the Closed School Section, and what kind of backlog does it face?

A closed school is required by regulation to have a close-out audit. If a close-out audit is not completed at the institution, the total amount of all unaudited funds would be considered as the total liability submitted to Accounts Receivable for this institution. The more common occurrence is one in which the school owner(s) close the school, declare bankruptcy, and fail to meet the close-out responsibilities for reconciliation of Title IV funds disbursed. Creating and recording this liability serves as a deterrent and a safeguard against owners of institutions that close and then seek to re-open later and participate in the Title IV programs. Any institution seeking eligibility and certification for Title IV must satisfy any prior Title IV debt prior to receiving Title IV funding once again. For those institutions that declare bankruptcy, the Department simply continues to carry the liability on Departmental financial records.

The Closed School Section was established in the 1992 reorganization of the Office of Postsecondary Education to oversee the coordination of school closings, address student concerns about teach-outs, and recover sureties posted by schools that close or lose eligibility. The Closed School Section recently compiled a comprehensive list of all schools that have closed since January 1, 1986 and developed a database to maintain and allow access to this information. Also, staff members helped develop interim procedures, in the form of a Dear Colleague letter, to allow some closed school discharges while the negotiated rulemaking process was underway

In fiscal year 1993, 235 schools closed. Of this 235, less than 10 percent have not completed their close-out audits.

Nunn 13: The Office of Student Financial Assistance Programs underwent a restructuring following our 1990 investigation. Congress approved 100 new positions for the Office. Do you plan further restructuring? How many of the new positions were provided to the Field Offices?

In fiscal year 1992, the Office of Postsecondary Education was allocated an additional 100 positions. However, because the Department's appropriation was reduced and we had to absorb the 4.2 percent pay raise provided to all federal employees, the appropriation was insufficient to support all 100 positions. As a result, the Office of Postsecondary Education proceeded to allocate an additional 75 positions, of which 70 positions were allocated to the Student Financial Assistance Programs. Of this 70, 14 positions were allocated to the Institutional Participation and Oversight Service and six positions were allocated to the Field Operations Service, to strengthen and coordinate the gatekeeping and monitoring functions.

Although the Student Financial Assistance Programs received an allocation of 42 additional positions in fiscal year 1993, 35 were reserved for the Federal Direct Student Loan program. Of the remaining seven, four were allocated to the Institutional Participation and Oversight Service and none were allocated to the Field Operations Service.

For fiscal year 1994, the Student Financial Assistance Programs has received an allocation of 100 additional positions. Of this increase, 12 positions have been allocated to the Field Operations Service and 17 have been allocated to the Institutional Participation and Oversight Service. We are moving as expeditiously as possible to fill these positions and will keep you apprised of our efforts in this regard.

With respect to restructuring, we have already created a Direct Loan Task Force to oversee the implementation of direct lending and we intend to do some further restructuring of the Office of Postsecondary Education in the near future. This will include consolidating all policy analysis functions in one unit, rather than spreading them throughout the organization. We are also examining the field service to assess whether having these staff organizationally separate from functional offices serves the new "teamwork" concept of management. To enhance the focus on program reviews, we are also looking at possible ways to use the current FTE more effectively and to work more closely with the states in performing this function.

Nunn 14: In our 1990 investigation, we found that there was no communication between the members of the so-called triad: the States, the Accrediting Bodies, and the Department of Education. Under the 1992 Amendments to the Higher Education Act, we gave significant authority to the Department to contract with the States for even greater oversight of schools. Some State Education Departments have told the Staff that accrediting bodies will not share the reviews they conduct with the Department or the States. Is this true? If so, how can the triad work, if there is a veil of secrecy surrounding the information obtained?

It is true that some accrediting agencies do not share the results of the reviews they conduct with states or the Department. While many do, there is a significant degree of variance in what and how much information agencies share with states. Most agencies have policies on confidentiality that prevent them from sharing information with states or anyone else without the approval of the institution. This situation will change as a result of the 1992 Amendments to the Higher Education Act. In the proposed accreditation regulations to implement this new authority, accrediting agencies will be required to share with other accrediting agencies, the states, and the Department information about the accreditation actions they take with respect to a school or program. The prohibition on releasing information because it violates an agency's policies on confidentiality will effectively be eliminated by the requirement in the proposed eligibility and certification regulations that any institution that wants to participate in Title IV programs must sign a program participation agreement authorizing accrediting agencies, states, and the Department to share information about the school.

Without doubt, the integrity triad will work best if there is a spirit of cooperation among its three members that fosters communication. The Department will promote activities to strengthen cooperation and communication among the members of the triad. Although there may be resistance to sharing information, the Department believes that past barriers to communication can and will be reduced. Additionally, the 1992 Amendments provide special opportunities for states and accrediting agencies to work together through contractual agreements for the sharing of information.

Nunn 15: I understand that the Department of Education does not even know which participating schools are not examined by their respective State Education Departments. In fact, it was not until the Department provided a list of participating schools to the New York Education Department that it discovered that 85 of the 891 schools were not regulated by the State. Is the law too vague on this issue? Should the Congress mandate that participating schools be regulated by their respective State Education Departments, and not just "recognized" by the State?

The Department currently has information about schools that are licensed by state agencies. However, it is not always clear which institutions are exempt from licensure by a state. For example, New York does not license schools that offer only religious degrees. Also, there is tremendous variety in the requirements for licensure in each state.

At this time, we do not believe that we need further legislation in this regard. The State Postsecondary Review Entities (SPREs) will, for all practical purposes, require more disciplined state reviews than licensure requires.

Nunn 16: Under this new State oversight mechanism, what plans do you have to provide uniform training to the States, so that we have uniform application of the law in the individual States? At the same time, what plans do you have to train or retrain your Federal workforce in their gatekeeping and oversight roles?

The Department is planning a two-part approach to training states and providing technical assistance to the SPREs. The Department will convene meetings involving clusters of states and Department representatives to provide general information and technical assistance. There will also be technical assistance visits to individual states. The training and technical assistance efforts will focus on the requirements of the statute and regulations, implementing the school review process, and administering the State Postsecondary Review Program at the state level. The Department is currently providing technical assistance to states during the start-up phase of the program.

Training the accrediting agencies will take several forms. Perhaps the most effective one will be the one-on-one consultation provided by the Department staff members assigned to monitor each recognized accrediting agency. This consultation will normally take place during file reviews, reviews of the agency's decision meetings, and reviews of the agency's on-site reviews of institutions or programs, but the Department may convene special meetings of accrediting agencies to provide general information and technical assistance. Staff will also develop a guide for applicants seeking recognition and will invite agencies to observe the decision-making meetings of the National Advisory Committee on Institutional Quality and Integrity so that they may better understand the Department's policies and practices with regard to the evaluation of agencies seeking recognition. Department staff will be trained in-house on the new regulations implementing the 1992 Amendments through workshops, seminars, and meetings.

Institutional Monitoring Division staff are working closely with the Accreditation and State Liaison Branch to provide an orientation to the program review process. In addition to participating in the periodic nationwide (50-states) conference calls arranged by the Accreditation and State Liaison Division, the staff is developing a common factor listing that will include state concerns (statutory review criteria) to assist in program review school selection. Some joint reviews will be planned, with Department reviewers working on teams with state agency staff. The Program Review Guide has been made available, and the updated Guide, when revisions are completed in fall 1994, will be provided to state postsecondary review personnel.

Because state authorities finding significant problems at schools may recommend Title IV termination to the Department, we will continue to work with states to ensure that their process is both comprehensive and relevant to the Department's federal student aid concerns.

Nunn 17: What can you tell the Subcommittee about the situations at Rockland Community College and Phillips Colleges?

Rockland Community College

The Department recently settled the Rockland Community College case by agreeing that the school will repay to the Department $3 million at 4 percent interest over eight years.

Phillips Colleges, Inc.

Background. Phillips Colleges, Inc. (PCI) is a corporation based in Gulfport, Mississippi that operates a large number of proprietary schools located throughout the country. The Department has been reviewing the financial responsibility and administrative capability of PCI for several years. PCI has been reviewed by both the Office of Postsecondary Education's Institutional Monitoring Division and the Office of Inspector General.

PCI began to experience financial and administrative difficulties following the acquisition of two groups of schools (Katherine Gibbs and Rutledge Colleges) in 1989. The purchase of these schools and the adverse effects on these schools of excessive cohort default rates under the Department's Student Loan Default Initiative strained the resources of PCI to the point where it has had to close a significant number of schools since 1989.

In September 1991, PCI was placed on a system of reimbursement funding for all Pell Grant and Campus-Based funds, due to difficulties with administering Title IV student financial assistance funds. In the summer 1992, the Department notified PCI that it was terminating its participation in the Title IV programs because PCI no longer met the regulatory standards of financial responsibility as defined by 34 CFR 668.13. This action was subsequently withdrawn when an agreement was reached between the Department and PCI on July 24, 1992 (the Agreement), which allowed 63 individual PCI schools to remain in the Title IV programs, notwithstanding PCI's failure to otherwise meet the standards of financial responsibility.

Terms of the Agreement. The Agreement required PCI to post and maintain a $5 million letter of credit, provide the Department with quarterly and fiscal year-end financial reports, fund one-half of all student loans through an escrow agent, and provide the Department with a summary of these operations every two months. In addition to requiring PCI to maintain the letter of credit at the $5 million level at all times, the Agreement also specified four mutually exclusive financial requirements that must be met at various reporting periods in order for PCI to continue its participation in the Title IV programs. Failure to comply with any one of these conditions would constitute a material breach of the Agreement which would result in the termination of PCI from the Title IV programs.

One of the four financial conditions stated that PCI could be terminated for failure to maintain a current ratio of assets to liabilities of greater than one to one at the end of three consecutive quarters.

Recent Actions by the Department. In late October 1993, PCI failed to replenish a draw upon the $5 million letter of credit, after a required 30-day notice of this material breach had been sent by the Department to PCI. This action has been contested by PCI and is currently in Federal District Court to determine the Department's right to proceed to terminate PCI on this basis alone.

Simultaneous with the Letter of Credit litigation, the Department reviewed the financial statements of PCI and determined that PCI failed to meet the current ratio requirement on each of three consecutive calendar quarters, beginning with the fourth quarter of 1992. Based upon PCI failing to meet this requirement, the Department is considering the appropriate action it should take.

The Department has filed another action resulting from PCI's violation of the July 1992 agreement (failure to replenish the agreed upon letter of credit made out to the Secretary). As provided in the agreement, the Office of the General Counsel has presented a brief to the designated hearing official, the Department's Chief Financial Officer Donald Wurtz, supporting the Department's position that PCI has violated the terms of the agreement. Termination of all PCI institutions from the Title IV programs is requested. A decision is pending.

In addition:

1) Phillips attorneys are appealing key audit and program review findings through the Office of Hearings and Appeals. The outcome is pending.

2) The Department continues to make direct refunds on behalf of students to student loan note holders, using funds drawn by the Department from the PCI letter of credit.

Nunn 18: Some Departmental employees complained about an apparent revolving door, in that numerous Education employees have left the Department to go to work for schools which are under scrutiny by the Department. Do you know about this? Are there cases in which this has presented a problem for the Department?

The Department is aware that over the years a number of Office of Postsecondary Education employees have left the Department to work for postsecondary institutions. Conversely, the Department has hired many employees from postsecondary institutions. In most cases, this has been viewed as a positive exchange of expertise between the federal government and those responsible for administering our programs at the institutional level.

While questions regarding the activities of some former Department employees have been raised, we are not aware of any findings that these employees have violated federal regulations governing post employment activities.

Nunn 19: The Staff testified that schools, once they are participating in the Federal student aid programs, may create new educational programs, and that students enrolled in these new programs receive Federal aid. When your Office last reviewed the certification and eligibility functions at the Department, what did they find out about the Department's review of the new programs offered at the schools?

The response to this question will be provided by the Office of the Inspector General along with responses to the follow-up questions submitted to Inspector General James B. Thomas, Jr.

Nunn 20: As I mentioned, the Department advised the Subcommittee that thousands of students received Pell Grants for more than ten years. In light of the direct loan program, wherein we will be loaning Government money, should we establish a limit on the number of student loans that the Government will guarantee to individual students?

We do not believe that it is necessary to set a limit on the number of student loans that the Government will guarantee to individuals because we have already established limits on the total amount students can borrow under the guaranteed student loan programs. Limiting the amount that can be borrowed seems more effective in addressing such concerns than limiting the number of loans. Under the Federal Family Education Loans program, a student pursuing an undergraduate degree can borrow only up to $22,000.

The issue of appropriate limits and maximums is one that we will address during the next phase of our student aid reform. We will initiate a broad review to see how our student aid programs can be restructured to increase their efficiency and effectiveness.

Nunn 21: The Subcommittee Staff testified that the Higher Education Act and its implementing regulations are needlessly complex. They suggest the Act and regulations be redrawn to make them clearer and less ambiguous so that parents, students, schools, lenders, accreditors, guaranty agencies, and the many other elements involved could better understand and participate in the student aid programs. Do you share the Staff's opinion?

Yes, we certainly agree that they are complex. While some degree of complexity is inherent in any process that annually delivers 13 million grant, work-study, and loan awards to seven million postsecondary students via a network of 7,000 postsecondary institutions, 8,000 lenders, and numerous accreditors, guarantors, secondary markets, loan servicers, and state agencies, it is incumbent on us to do all that we can to simplify the process for program participants. The 1992 Amendments to the Higher Education Act contained several provisions to simplify the process for all involved.

Parents and students have been served by merging the two previous student eligibility formulas into a single measure of financial need for all Title IV student aid programs. Also, the new single formula provides a "bypass" application for low-income applicants. That is, many parents and students need only to provide basic (non-financial) identification and eligibility data when applying for grants and loans.

We have made some changes in the regulations procedures in the Office of Postsecondary Education to ensure that regulations are timely, as well as easy to read and understand. The interests of the other parties participating in the student assistance programs are served through the negotiated rulemaking process, which is now required by statute. Negotiated rulemaking involves representatives of the postsecondary education community, including accrediting agencies, colleges, universities, and trade schools, as well as those involved in financing postsecondary education such as lenders and guarantors, in developing program regulations. We expect that the participation of non-federal external groups in the regulations development process will further simplify program administration.

Although the 1992 Amendments simplified the student aid programs for some participants and provided a mechanism for improved understanding of the programs by other participants, indeed there is more that can be done. The recently-enacted Student Loan Reform Act of 1993 is a step in this direction. Eliminating the middlemen in the student loan system in favor of direct lending by the federal government will enable parents, students, and schools to enjoy the benefits of a truly simpler system.

Nonetheless, the Administration does not intend to stop here. With a direct student loan program established, the Department is now looking to an overall reform of the student financial assistance programs. This effort has already begun inasmuch as we have had formal discussions with representatives of the higher education community on this subject. We believe that the objectives of program simplification, reduced program costs, and streamlined program administration, which we have achieved with the implementation of direct lending, can be accomplished in our grant, work-study, support services, and other programs as well.

Sasser 1: I appreciate the efforts of the Department of Education to respond to allegations of impropriety in the Pell Grant program, and I fully support the Department's efforts to remove from the program those institutions which do not meet federal eligibility requirements.

As you know, the subcommittee investigation has concentrated on a number of institutions offering courses in Judaic studies. I understand the Department of Education has already acted to terminate funding for twenty-one such schools.

The staff statement of the Permanent Subcommittee on Investigations documented a number of activities at three of these schools which are clearly improper. However, I have not seen such detailed descriptions of the activities of the other schools accused of impropriety.

Some of these schools claim that their actions have been proper and that they have been unfairly associated with wrongdoers. Having participated in the Pell Grant program for a number of years in a manner they believed to be appropriate, they are disturbed by what they perceive as a sudden and groundless attack. They believe the Department went to greater lengths to inform the media of its activities than to notify the institutions involved.

I believe you agree with me that the Department must have good reason for barring an institution from receiving Pell Grant funding, and the Department must be able to explain its reasoning. Accordingly, I would appreciate knowing if you have established procedures to determine an institution's eligibility or ineligibility as well as what those procedures might be. I would also appreciate your informing me of what procedures the Department uses to notify institutions of its findings and to allow affected institutions to present their views.

Should your efforts to improve controls lead to further terminations of participating institutions, I believe your office must be prepared to proceed in a manner that is consistent with the principles of due process and basic fairness.

At the time of the hearings, the Department had not acted to terminate funding for 21 Judaic studies institutions. Rather, the Department had transferred these institutions to the reimbursement system of payment and was in the process of evaluating each school's programs to determine whether initiating a termination action was warranted. Upon completing these evaluations, we notified all 21 schools, during the week ending January 14, that they are no longer eligible to participate in the Title IV programs on the grounds that they provide only avocational training.

The Department has specific procedures for determining the eligibility and certification of institutions to participate in Title IV student financial assistance programs, including the Federal Pell Grant program. The institution and at least one of its programs must meet all of the requirements of one or more of the statutory definitions of an eligible institution, as defined by the Higher Education Act of 1965, as amended, and implemented by the Institutional Eligibility Regulations (34 CFR 600). The three definitions of eligible institution are: institution of higher education (34 CFR 600.4), proprietary institution of higher education (34 CFR 600.5), or postsecondary vocational institution (34 CFR 600.6).

These regulations state that an institution must be legally authorized (licensed) to provide an educational program beyond secondary education by the state in which it is physically located, and it must be accredited or pre-accredited by a nationally recognized accrediting agency. In addition to meeting these eligibility criteria, the institution must be both financially responsible (34 CFR 668.13) and administratively capable (34 CFR 668.14 and 668.15).

The institution must file an Application for Eligibility and Certification. If the institution is an initial applicant and does not meet the eligibility and certification requirements, it is not approved for participation in Title IV programs. The Department informs the institution of its decision by letter. The institution may appeal the decision to a designated Department official whose decision in the case is final.

A currently participating institution that loses its accreditation or state authority also loses its eligibility to participate in the student financial assistance programs. The Department initiates Emergency Action procedures as defined in 34 CFR 600.41 and 34 CFR 668.83 to withhold funds from the institution and its students, and to withdraw the authority of the institution to obligate and disburse funds under the student financial assistance programs. The Department sends a formal Notice of Emergency Action to the institution. The institution may request an opportunity to show cause why the emergency action is unwarranted. If the institution becomes reaccredited through the same accrediting agency that withdrew its accreditation, the institution may reapply for a determination of eligibility and certification for student financial assistance programs. Otherwise, if the institution is terminated from participation in student financial assistance programs through an action taken in conjunction with 34 CFR 668 Subpart G "Fine, Limitation, Suspension and Termination Proceedings," the institution may not reapply for approval for a period of two years from the date of the termination.

A currently participating institution that is being recertified and does not meet the standards of financial responsibility and/or administrative capability either is provisionally certified for a period not to exceed three years or is denied recertification depending on the nature and extent of the noncompliance. In either case, the institution is informed of the Department's action by letter. If the institution is denied recertification, the institution's file is referred to the Department's Compliance and Enforcement Division for an administrative process involving procedures set forth in 34 CFR 668 Subpart G as previously discussed.

Thus, as you can see, there are extensive procedures established for determining an institution's eligibility and also for notifying institutions of actions pending against them. In developing these procedures, we have tried to be fair and consistent with the principles of due process.

McCain 1: Why is the Department continuing to certify schools that have not met financial accountability standards? The Inspector General's testimony said that less than half of one sample of insufficiently-financed schools were asked for sureties, and then at an amount less than the 25 percent required by the Department's policies.

The Department is not continuing to certify schools that have not met financial accountability standards. Schools that apply for initial participation and do not meet the financial standards are routinely denied certification. However, if the school supplies additional information or more recent financial information, a reconsideration of the decision occurs. Upon reconsideration, some schools are then approved for certification with the condition that they post surety.

In its sample, the Office of Inspector General designated ten schools that failed to meet the financial responsibility tests as defined in the regulations. Of these ten, only three were asked for surety at an amount less than the 25 percent required by Department policy. The Department reviewed the three schools and found the following:

- One school posted surety in the amount of $125,000 which is approximately 24 percent of the Title IV funds received at the school for which records are available.
- One school posted surety of 10 percent of it's annual student financial assistance volume and entered into a third-party escrow agent agreement. This school meets the Department's policy of reduced surety for those schools that have entered into an escrow agreement.
- One school that failed the regulatory tests of financial responsibility was recertified. Upon the advice of the Office of the General Counsel, it is the position of the Department that schools being recertified should be given the opportunity to post surety. Direct denial of recertification without the opportunity to post surety is used only in the most extreme cases. The surety the school posted was consistent with the guidelines at the time of posting.

The Department is following its guidelines with regard to approval of schools that do not meet the standards of financial responsibility and the posting of surety for these schools. The determination of financial responsibility is not an exact art. There must be a determination made of the risks to the Department and to the taxpayer. It is the judgment of the Department that in the instances cited by the Office of Inspector General, sound judgment was made.

McCain 2: Do you believe that there should be limits on the length of time a student can receive a Pell Grant, and the total amount they can receive under the program?

We think that it would be appropriate to establish a maximum limit on the length of time a student can receive Pell Grant awards and we will consider this further as we plan the next phase of the student aid reform. Such limits previously have been in the law and were supported by the Department. If the length of time a student can receive awards is limited by law, then a limit on the total amount would be implicit (yearly maximum award amount x maximum length of time eligible).

McCain 3: Inspector General Thomas stated that there are no identification requirements for students for whom Pell Grant money is being drawn down by a school? Would this be a worthwhile or practical step to implement to cut down on fraud?

The Higher Education Act requires the Department to advance to participating institutions at least 85 percent of the amounts that schools need to pay Pell Grant awards to eligible students during each payment period. This advance is based on the amount requested by the institution and the institution's use of program funds in the previous year. The recently passed technical amendments clarified that if a school is on reimbursement, then it is not eligible for this advance. This authority pertains to the obligation of funds by the Department, not the actual drawdown of cash. The Department has demonstrated to the satisfaction of the Office of Management and Budget that this approach is both cost and time efficient.

The Master Calendar in the Higher Education Act requires that the initial Pell Grant authorization levels must be sent to institutions by June 1.

The Office of Inspector General does not differentiate between the obligation of funds to an institution and the school's actual drawdown of these funds. For example, if the program obligates $100,000 on June 1, 1993, with an effective date by law, of July 1, 1993, and the school draws the funds on August 20, 1993 to pay first term students beginning classes on August 23, 1993--the Office of Inspector General would consider that the school had the cash in hand on July 1 (or even June 1). The Office of Postsecondary Education's Student Financial Assistance Programs staff believe that this would not be the case as obligations do not equal expenditures.

With regard to implementing identification requirements, current on-site inspection of a school's records under a required audit or through a program review would indicate if a school is drawing funds in excess of its need.

McCain 4: The Inspector General also testified that schools having excess cash reserves from Pell Grant receipts appears to be a national problem. What can be done to address this issue?

We do not believe that the excess cash issue is a national problem in the sense implied. It has been reported that approximately 38 percent of the audits and program reviews report excess cash on hand as a finding. While the finding has applied to various schools at various times, it typically reflects a relatively minor compliance problem. In fact, expenditure reports submitted by participating schools for the third quarter for fiscal year 1993 (representing the end of the academic year for most schools) indicate that schools had excess cash on hand amounting to less than one percent of the total amount disbursed during the year.

The problem appears more serious than it is because of the definition of what constitutes excess cash. The Department has defined excess cash as the retention of funds in excess of the amount required to make financial assistance payments during a three day period immediately following the date that the school receives the funds. There are no cash reserves allowed. Instead funds may be drawn only to meet immediate need. If reserves were permitted, there probably would be only infrequent audit findings of excess cash on hand.

A finding of excess cash often reflects timing, forecasting, and disbursement difficulties. For example, a school may underestimate the number of students who will not show up for classes or who will drop out and request more funds than it can legally pay students or credit to their accounts. In nearly all cases, excess cash is properly disbursed or returned to the Treasury, but beyond the three days permitted. Moreover, in nearly all cases, there is no actual loss of program funds involved. The loss that occurs to the government is the result of interest charges on federal borrowing.

The Department routinely uses periodic expenditure reports to monitor the amount of federal cash held by schools. When schools are noted to have excess cash, their authority to draw down additional funds is suspended until prior expenditures are accounted for. In addition, the Department plans to take the following steps to ensure that it is exercising proper control over cash drawdowns:

- Both the Office of Postsecondary Education and the Office of the Chief Financial Officer (which administers the Payment Management System) are increasing the monitoring of schools that have had ongoing cash management problems;
- Reviewing the Department's cash drawdown standards to evaluate their suitability to both protect public funds and meet the practical needs of schools; and

- Providing additional training for schools, particularly on The Blue Book, the Department's requirements for cash management, the drawdown and retention of funds, accounting, record keeping, and reporting by postsecondary institutions for federally funded student financial assistance programs.

McCain 5: The Inspector General testified that contract costs for Pell Grant processing have increased 432 percent in the last five years, although applications have increased only 23 percent. What is causing this dramatic rise?

Incorrect cost figures were used for comparison. The fiscal year 1989 development costs were $3.4 million. Development costs are those related to the building of the Central Processing System (CPS) and Multiple Data Entry systems ultimately needed to process the forms. The fiscal year 1990 year-to-date costs were $18.9 million, which included production costs (related to the actual processing of the 1990-1991 forms) plus development costs for the 1991-1992 system.

Fiscal year 1991 costs were $22,889,835. This total included processing for the 1991-1992 award cycle and development for the 1992-1993 cycle.

Fiscal year 1992 costs were $22,163,974 for 1992-1993 processing. Under a new contract, fiscal year 1992 costs attributable to developing the 1993-1994 processing cycle were $4,982,419. The total fiscal year 1992 costs equaled $27,146,393.

In summary: There was a 43 percent increase in production & development costs from fiscal year 1990 to fiscal year 1992.

fiscal year 1990 production & development = $18.9 million
fiscal year 1991 production & development = $22.9 million
fiscal year 1992 production & development = $27.1 million

There was a 47 percent increase in development costs from fiscal year 1989 to fiscal year 1992.

fiscal year 1989 development costs = $3.4 million
fiscal year 1992 development costs = $5.0 million

The volume of applications processed increased about 17 percent between the academic years of 1990-1991 and 1992-1993.

1990 - 1991 application volume = 7,803,279
1991 - 1992 application volume = 8,597,645
1992 - 1993 application volume = 9,113,049

While the increased volume of applications processed accounts for some of the increase in the total cost, most of the total cost increase results from the addition of products and services related to the restructuring of the CPS and MDE systems to meet requirements of the 1992 Amendments to the Higher Education Act.

McCain 6: How can you prevent the problem of "overawards?" The Inspector General states that 28 percent of awards for 1988-1989 were erroneous, at a net loss of $275 million.

The Price Waterhouse report used by the Office of Inspector General is outdated. The report identified significant sources of institutional and student marginal error. Student marginal error was a result of questions misunderstood or reported incorrectly on the 1988-1989 Application for Federal Student Aid. For example: if a student received a $2,100 Pell Grant award but the school's file lacked the correct piece of paper at the time the field reviewers checked it, the entire $2,100 was considered an error. The 1993-1994 and 1994-1995 versions of the Free Application for Federal Student Aid (FAFSA) have been radically redesigned and revised. Additionally, the Price Waterhouse report indicated that only 11 percent of the total Title IV dollars awarded in 1988-89 were in error, not 28 percent. This percentage includes underawards as well as overawards.

The FAFSA no longer collects parent's home value, which was identified as a major source of marginal student error. In addition, Congress changed the definition of an independent student, which uses verifiable items (a student's age, veteran and marriage status, and so forth). This should significantly reduce error in this item.

The formula now takes into account the family's total income as it relates to the amount of earned income credit for which they may qualify. If certain conditions are met, the system grants the family an automatic expected family contribution (EFC) and does not perform a calculation based on other error-prone data elements (such as household size, untaxed income, and asset information). This change also should reduce calculation error.

The FAFSA has also been improved. It has been re-designed and it now collects application data that is easier to verify. For example, income exclusions have a specific place on the form and are deducted automatically by the systematic EFC computation. This alleviates the problem applicants had in deducting Title IV aid received from their adjusted gross income, which contributed to error found in the study.

McCain 7: Please elaborate on your testimony regarding schools using lawsuits to escape the consequence of high default rates. What response have you gotten to your legislative remedy? What would it save taxpayers?

Sections 428(a)(2) and 435(a)(2) of the Higher Education Act of 1965, as amended, provide that schools with cohort default rates above certain threshold levels will be excluded from participating in some or all of the Federal Family Education Loan (FFEL) programs. However, some courts have interpreted the definition of "cohort default rate" in section 435(m) of the Higher Education Act to allow schools to challenge their cohort default rates based on allegations that the loans included in the calculation of their rates were not serviced in accordance with the Department of Education's due diligence requirements. These courts also required that the schools be allowed an opportunity to review and comment on the loan servicing records maintained by guaranty agencies as part of such an appeal. Other courts have held that the Department is required by the Higher Education Act to ensure that all the loans included in calculating the cohort default rates were properly serviced prior to announcing school default rates. There are 16 pending lawsuits challenging various aspects of the default initiative. In eight of these cases, the Department has been enjoined from releasing cohort default rates for particular institutions. These injunctions have allowed approximately 30 institutions to avoid the Congressionally mandated impact of their excessive cohort default rates.

To avoid the effect of these court decisions, the Department submitted a legislative proposal to the Congress this fall. This amendment would have eliminated allegations of improper loan servicing as a basis for challenging cohort default rates. The Department's experience with the default rate initiative to date has shown that very few of the schools' allegations are valid and that default rates change very little when servicing allegations are considered. In contrast, however, considering loan servicing violations on a loan by loan and document by document basis requires significant time and resources. The Department has estimated that considering pending appeals based on loan servicing will take a minimum of 7,968 work days. The Department's fiscal analysis concluded that enactment of this amendment would save $46 million in fiscal year 1994 and $262 million in fiscal years 1994 - 1998. Eliminating high default schools from the FFEL programs based on default rates for fiscal years 1989, 1990, and 1991 has been estimated to have saved the federal government over $373 million in defaulted loan principal alone (not including interest subsidies and other costs).

The Senate passed the Department's legislative proposal as part of S. 1507, the "Higher Education Technical Amendments of 1993." However, the final version of that bill, as agreed to by the conference committee and passed through both Houses, did not include the Department's proposal. Instead, the final bill amends section 435(m) to provide schools with an opportunity to review servicing records and challenge the servicing of loans included in their cohort default rate calculations and further complicates the process for determining cohort default rate appeals. While this amendment may help to resolve some of the legal issues relating to the calculation of cohort default rates, it does not significantly change certain basic legal and practical issues that limit the Department's ability to eliminate high default schools from the FFEL programs. Thus, it is unlikely that the default initiative will provide the future cost savings anticipated by Congress or achieve the goal of eliminating schools that abuse their students and the FFEL programs from participation in those programs.

McCain 8: Subcommittee investigators criticized the inadequate resources and staff at the Department to review schools receiving Pell Grants. Did the Administration request a substantive increase in oversight personnel? How many additional people do you need to better protect the taxpayer's investment in this program?

When considering and prioritizing Office of Postsecondary Education budget requests and distribution of allocations, we have tried to emphasize the importance of oversight and monitoring. In fiscal year 1992, the Office of Postsecondary Education was allocated an additional 100 positions. However, because the Department's appropriation was reduced and we had to absorb the 4.2 percent pay raise provided to all federal employees, the appropriation was insufficient to support all 100 positions. As a result, the Office of Postsecondary Education proceeded to allocate an additional 75 positions, of which 70 positions were allocated to the Student Financial Assistance Programs. Of this 70, 14 positions were allocated to the Institutional Participation and Oversight Service and six positions were allocated to the Field Operations Service, to strengthen and coordinate the gatekeeping and monitoring functions.

Although the Student Financial Assistance Programs received an allocation of 42 additional positions in fiscal year 1993, 35 were reserved for the Federal Direct Student Loan program. Of the remaining seven, four were allocated to the Institutional Participation and Oversight Service and none were allocated to the Field Operations Service.

Equally as important as the actual number of FTE, however, is maximizing the utilization of the personnel we have. We have to ensure that our current staff members are assigned to the right jobs and that they have adequate resources to carry out their duties.

McCain 9: What steps are taken against accreditation agencies that certify fraudulent schools, or schools that are rife with mismanagement? How can you ensure that they do a better job of not accrediting "Pell Grant mills" or schools of dubious quality. When will your new regulations start showing results?

The Secretary issues a "Show Cause" notice against any accrediting agency that appears to be out of compliance with the requirements for recognition. If an agency demonstrates only limited compliance with some or all of the requirements for recognition, the Secretary may grant a shorter period of recognition and monitor the agency very closely during that recognition period.

The 1992 Amendments provide the Secretary with the authority to limit, suspend, or terminate the approval of an accrediting agency if it is determined that the agency fails to effectively apply its standards or operate according to the requirements for recognition. To this end, the Department has greatly increased its monitoring of an accrediting agency throughout its recognition period, focusing on what (if anything) the agency is doing with respect to institutions whose compliance with their Title IV responsibilities is so poor that it raises serious questions about the quality of education or training provided. This ongoing monitoring includes announced and unannounced visits to the agency and its institutions, as well as reviews of agency files on institutions that have been determined to be problematic.

McCain 10: You state that 163 institutions were terminated from participation in the Pell Grant program this year. How many of the 6,300 that are eligible do you think might be involved in fraud or abuse?

This is a difficult question to answer. However, some indicators may be found in our analysis of program review history. Overall, only a small percentage of total program reviews conducted have uncovered serious Title IV compliance problems. Typically, of the total reviews conducted in a given year, about 13 percent are Level 3 or 4 (serious findings/liabilities). Many of these problems, while serious, involve program mismanagement, but not necessarily intentional fraud and abuse. We estimate that 5 percent of the reviews expose fraud and abuse, resulting in referral of the school to the Office of Inspector General. While this is an important problem, only a small percentage of the total population of participating institutions are involved in fraud and abuse. It is important to keep in mind that this is 5 percent of the number of institutions targeted for review, not 5 percent of the total population of participating institutions.

McCain 11: Would you recommend that there be limits on the number of years a student can receive a Pell Grant, and the total amount of funds they receive?

As indicated in my earlier response to a similar question, we believe it would be appropriate to limit the length of time a student can receive Pell Grant awards and we intend to explore this further as we plan the next phase of the student aid reform. If the length of time a student can receive awards is limited by law, then a limit on the total amount would be implicit (yearly maximum award amount x maximum length of time eligible).

McCain 12: The Inspector General testified that technical amendments passed by the Senate pertaining to federal financial aid will worsen the problem of losses to the federal government. Do you agree that this legislation will cause further losses of taxpayer dollars due to financially-unsound schools being able to participate in Title IV programs?

The 1992 Amendments to the Higher Education Act mandated tougher financial responsibility standards for institutions that participate in the Title IV programs. This legislation gave the Department a powerful tool to help keep financially unsound schools from participating in the Title IV programs.

The technical amendments have somewhat weakened the Department's ability to keep financially unsound schools from participating in the Title IV programs. However, the Department still has the authority within the statutory framework to establish stronger standards than are in the current regulations. The Department plans to establish such standards, and we will be seeking public comment through the regulatory process.

McCain 13: Subcommittee investigators did case studies which found some schools with 99 percent of their students receiving maximum Pell Grants. Does the Department consider such schools as financially self-sustaining? I would think having every student on Pell Grants would disqualify the school as financially unsound. What are your views?

The fact that 99 percent of an institution's students receive maximum Pell Grants does not necessarily indicate that the institution is financially unsound. It does indicate that the institution is serving an economically disadvantaged population, which is the exact intent of the Pell Grant program. However, if an institution receives 99 percent of its operating income from its Pell Grant Program recipients, the Department would consider the institution to be financially unsound because it lacks alternate sources of income and is overdependent upon Title IV student aid funds.

Furthermore, as a result of the 1992 Amendments to the Higher Education Act, an institution that receives more than 85 percent of its revenues from the Title IV programs will become ineligible for participation. The Department is in the process of developing regulations that will implement this part of the statute. Once this regulation is issued as a final rule, institutions such as you describe in your question would not qualify for Title IV program participation or funds.

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE CHIEF FINANCIAL OFFICER

THE CHIEF FINANCIAL OFFICER

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MAJORITY OFFICE

David Buckley
United States Senate
Permanent Subcommittee on Investigation
Committee on Governmental Affairs
100 Russell Senate Office Building
Washington, DC 20510

Dear ~~Mr. Buckley~~, David

As a result of your recent conversation with Phoebe Felk in the Department's Office of Legislation and Congressional Affairs, the following is provided as further information regarding the issue of excess cash that was raised during the subcommittee's hearing on the Pell Grant Program.

In the Department's January 27 responses to the subcommittee's questions, we indicated that recent expenditure reports submitted by schools showed that schools had excess cash on hand amounting to less than one percent of the total amount disbursed during the year. In most of these cases, the cost to the government is interest on federal borrowing.

The Department routinely uses periodic expenditure reports to monitor the amount of federal cash held at schools. At the end of the third quarter of fiscal year 1993 schools had approximately $50 million in excess cash on hand. A recently completed analysis of expenditure reports submitted at the end of the fourth quarter of fiscal year 1993 shows approximately $60 million in excess cash on hand as of September 30, 1993.

The Department's Office of the Inspector General has informed me that it believes that the range of our estimates ($50-$60 million) may be understated since excess cash may be greater between quarterly reporting periods. I have asked that office to continue to perform work to identify an estimate of excess cash based on 1993 audits and program reviews. This work involves identifying the universe of reports with an excess cash finding, reviewing a statistical sample of the reports, and projecting the results. As soon as the work is completed, I would be pleased to provide you with the findings.

Enclosed is a summary outlining our current policy with respect to excess cash. Part of the problem is the lack of a clear definition of excess cash. We are trying to address this issue in the current negotiated rulemaking process. We also plan to work with OMB and Treasury to determine how an advanced electronic payment system might be used to address this problem in the future.

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Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation

The subject of excess cash is complex and has several dimensions. We would be happy to sit down with you and go over the various issues, including concerns related to the timing of disbursements and the impact of the Cash Management Improvement Act. If you would like to schedule such a meeting or if I can provide any additional assistance, please give me a call on 401-0085.

Sincerely,

Don

Donald R. Wurtz

Enclosure

Excess Cash in the Pell Grant Program

Regulations and Other Policies Affecting Excess Cash

The Twenty One Day Rule

Description: The earliest an institution may credit a registered student's account is three weeks before the first day of classes of a payment period.

Source Document(s): Code of Federal Regulations, (34 CFR, 690.78)
United States Code, (20 U.S.C. 1070a)

The Ten Day Rule

Description: The earliest an institution may directly pay a registered student is ten days before the first day of classes of a payment period.

Source Document: Code of Federal Regulations, (34 CFR, Ch. VI, 690.78)

The Three Day Rule

Description: The amount of Pell Grant funds requested by schools may not exceed "immediate need". "Immediate need" is defined as "need for a three day period" for institutions using the ACH/EFT method". For institutions using FEDWIRE, it means "need for one day".

Source Document(s): The Blue Book, Office of Postsecondary Education (p. 149)
Recipients's Guide, Accounting and Financial Management Service,

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 94

ADDITIONAL QUESTIONS FOR THE HEARING RECORD

James B. Thomas, Jr.
Inspector General
U.S. Department of Education

1. How many programs, other than student financial aid, does your Office provide audit and investigative assistance for?

Answer: Under current appropriations, the Department of Education is responsible for administering 225 programs in addition to the Title IV student financial aid programs. While we do not have audits or investigations under way in all of these programs, we are responsible for overseeing all of them.

2. Do you have adequate investigative and audit resources to follow up on the allegations your Office receives? Members of your staff told the Subcommittee staff that the agents in the field are simply overwhelmed with the number of allegations which they receive. In fact, in 1990, the first case study this Subcommittee examined, American Career Training -- a travel agent and secretarial correspondence school -- has yet to be adjudicated. How bad is the problem out there?

Answer: Historically, ED/OIG has not been authorized the number of full-time equivalent (FTE) positions that we believe are necessary to provide the appropriate level of audit, investigative, and inspection coverage of the Department's programs and operations. Also, our appropriated funds have not been sufficient to support the number of authorized positions and associated costs.

For several years, our budget requests to the Department have identified the level of resources needed to provide adequate coverage of ED programs and operations. Unfortunately, the budgetary process has resulted in insufficient budgetary and staffing resources. For example, for 1994, we requested $62.6 million to support 640 FTEs. For FY 1994, the Department submitted two budget requests. The first request, under the Bush administration, was for $40 million to support 400 FTEs. The second request, under the Clinton administration, was for $28.840 million to support 360 FTE. Congress approved a FY 1994 appropriation for the requested amount ($28.840 million) to support 368 FTE.

Since we have only 73 criminal investigators to work cases, we focus our resources to maximize the impact of our efforts. To this end, we are taking steps to reduce our investigative case inventory (currently about 800 cases) to those having the greatest potential for monetary loss and detrimental program impact. A result of this refocusing will be that we will be working the worst cases in terms of complexity, staff time required, and difficulties with prosecution. In short, many of these will be similar to the case you have cited regarding American Career Training, which is taking years to resolve and heavy expenditures of our limited resources.

3. Some Departmental employees complained about an apparent revolving door, in that numerous Education employees have left the Department to go to work for schools which are under scrutiny by the Department. Do you know about this? Are there cases in which this has presented a problem for the Department?

Answer: Yes, I am well aware of a number of such cases. The most recent is that of the former Deputy Assistant Secretary for Student Financial Assistance until July 1992. In that capacity, he negotiated an agreement that allowed a large proprietary school chain to remain in the Title IV programs. Seven months later, he accepted the post of President and Chief Operating Officer for that proprietary school chain.

The problem this presents is what I will call "side switching," whereby a former federal official switches sides and takes all the inside information he/she has gained while serving in the government and shares it with his/her new employer for that entity's use and benefit. This type of activity potentially undermines the impartiality of Federal officials when they make important and costly decisions that will affect potential employers in the private sector and creates the appearance of impropriety. The legal constraints on post-employment activity for federal employees are very narrow. Essentially, all that the law prohibits the employee from doing is engaging in "representational activity" -- that is, making actual communications to federal agencies with the intent to influence -- in connection with particular matters in which he or she was involved or which were under his or her official responsibility [18 USC 207].

4. The Staff testified that schools, once they are participating in the Federal student aid programs, may create new educational programs, and that students enrolled in these new programs receive Federal aid. When your office last reviewed the certification and eligibility functions at the Department, what did they find out about the Department's review of the new programs offered at the schools?

Answer: During our audit of the eligibility process issued in 1991, we found that the regulations do not require an eligible school adding a new program to apply to the Department to have the program designated as eligible. The regulations also state that the school may determine on its own that the new program meets the statutory and regulatory eligibility requirements. If the school incorrectly determined that its program met the eligibility criteria, the school is liable for all SFA program funds disbursed on behalf of students enrolled in the programs. We also found that the Department was not performing eligibility redeterminations every four years as required by regulation. Therefore, schools could add a new program and disburse SFA funds for the program, without ever being reviewed by the Department.

Under the expanded eligibility and certification procedures in the HEA amendments of 1992 and the proposed implementing regulations, schools adding a new vocational program that is not similar to other eligible vocational programs offered by the school, must notify the Department. Also, schools offering any new vocational program under 600 clock hours must notify the Department. Schools may not receive SFA funds for students enrolled in the new program until the Department determines the program to be eligible.

Schools that add a new vocational program that is similar to their other eligible vocational programs, or school's adding new programs that lead to an associate, bachelor's or more advanced degree, will not have to notify the Department. However, the provision that the school will be liable for all SFA funds for an incorrect eligibility determination remains in the regulations.

The HEA amendments mandate that all schools' eligibility will expire within five years from the date of enactment (July 23, 1992). Therefore, the Department must redetermine each school's eligibility within that time frame for the schools to remain eligible to participate in the SFA programs. The HEA now limits eligibility periods to four years.

5. The subcommittee Staff testified that the Higher Education Act and its implementing regulation are needlessly complex. They suggest the Act and regulations be redrawn to make them clearer and less ambiguous so that parents, students, schools, lenders, accreditors, guaranty agencies, and the many other elements involved could better understand and participate in the student aid programs. Do you share the Staff's opinion?

Answer: The laws and regulations governing the Federal student aid programs are indeed complex and sometimes ambiguous. In some cases, they are obstacles to the achievement of the primary goal of the programs, which is to ensure that students have access to quality postsecondary education.

As examples, I would cite the clock-credit-hour conversion issue discussed in my testimony. Another very timely example is the new statutory language on financial responsibility in the 1992 amendments; recent "technical" amendments have incorporated ambiguous, confusing and unnecessary provisions (section 20 (i) (9) of the enrolled bill, relating to the calculation of an asset-to-liability ratio), which weaken the Department's ability to limit program participation by financially weak institutions. The default reduction initiative statutory provision and the recent technical amendment relating to the use of servicing data is yet another example of complexity which, in my view, has interfered with appropriate and expeditious administration of the loan programs.

But, contrary to what may be implied by the question, the answer is not so simple as just redrafting the laws and regulations. (In addition, the negotiated rulemaking requirement in the 1992 HEA reauthorization has substantially complicated the already difficult process of promulgating simple, clear and timely regulations.) Congress and the Department must recognize that the primary cause of the complexity problem is that the HEA Title IV programs as they are now designed include a myriad of players whose interests and needs are in many respects conflicting. Congress and the Department have attempted to accommodate many conflicting interest groups in these programs without proper regard for the primary program purpose. The result, unfortunately, is that loopholes and overly complex statutory and regulatory provisions abound.

Proprietary trade schools, particularly those with short-term programs, have been primary sources of problems in the programs. To a large extent, the complexity of the laws and regulations reflect attempts to remedy problems and abuses in this sector without placing unneeded and unduly burdensome requirements on other types of institutions in the programs. The end result is often unsatisfactory to everyone. The need for separate regulatory schemes for these different types of institutions was highlighted recently by an official of the American Association of State Colleges and Universities. He aptly noted that the current system of regulation is like a doctor giving the same treatment to a patient with a headache as one with cancer.

> "The guy with the headache is overdrugged, and the guy with cancer is probably headed for the morgue. Until we can rethink those fundamental distinctions, the department will end up doing nothing but throwing its umpteenth layer of Band-Aids on what are rather open, oozing sores."

While some laudable reforms have been made in the last reauthorization of the HEA, we must recognize that the programs will never be "fixed" until we recognize that "one size does not fit all." Fundamental changes must be made that reflect a judgment about what Title IV programs should be expected to achieve. The current funding mechanism may simply be inappropriate in the context of proprietary trade schools -- where the goal, as recognized in the definitional section of the Higher Education Act, is to make students gainfully employed in the trade for which they have trained at the minimum cost to the taxpayer. On the other hand, the funding mechanism may be perfectly appropriate for traditional, two- and four-year academic programs -- where the goal is to develop analytical skills and gain a degree that enables one to enter a number of professions.

The OIG has recommended in a Management Improvement Report mentioned in my testimony before this Committee that ED convene a multi-agency task force including the Departments of Labor and Veterans' Affairs to determine the best way to fund vocational educational programs, perhaps using outcome measures. This is similar to one of the recommendations of this Subcommittee in its 1991 report on the Title IV loan programs. The Department is formulating its plan to respond to our recommendation, and we think that such consideration of fundamental reforms for the Title IV programs is essential before the next reauthorization of the HEA.

QUESTIONS FOR THE RECORD
SENATOR JOHN McCAIN FOR
INSPECTOR GENERAL JAMES B. THOMAS

1. You state in your testimony that student defaults on federal loans have reached as high as $3 billion per year. What is the outlook over the next 3-4 years?

Answer: We are unable to forecast the future volume of defaults on federal loans because we have not performed any analysis, and we do not believe the necessary data is available. However, we believe that our audit activities directed at improving the gatekeeping functions in the Department will continue to have a measurable impact on defaults by keeping bad or weak schools from participating in the SFA programs. The new focus on student outcomes in the HEA amendments also should have a positive effect on defaults.

2. You note that funding for Pell Grants have increased 17% in the last two years. Is the Department of Education prepared to effectively distribute and monitor these new funds?

Answer: An increase in funds available for Pell Grants would not directly impact the Department's abilities to administer the program. If program policies, procedures and support systems are in place to effectively administer this program at a certain dollar level, these systems, policies and procedures would support program administration at a higher level. However, I strongly question whether it is realistic to expect that the most effective mangers could correct, at current staffing levels, the problems I cited in my testimony of October 28, let alone take on such significant new challenges as the initiation and rapid development of the new direct loan programs.

As I mentioned in my recent testimony before the Committee, I believe that if the Department is given the additional staffing requested for this program, there is a reasonable chance of success.

3. You state that the fact that the Pell Grant program has no clear outcome performance measures makes it ripe for fraud and abuse. In order to protect the taxpayers' investment, should performance standards be established for schools or students? Should there be new strings attached?

Answer: We strongly believe that meaningful and measurable performance standards are needed for all the Title IV programs and participants, to protect the students' and taxpayers' investment. We recently issued a Management Improvement Report (MIR), in which we recommended performance standards be established for schools. Our MIR 93-03, issued in March 1993, recommended that the Department convene an interagency task force to develop a Title IV funding system which considers the labor market needs of employers and the success rates of vocational training schools at placing graduates.

The Higher Education Amendments of 1992 (HEA) added new outcome performance measure responsibilities for accrediting agencies. The HEA also authorized a new State Postsecondary Review Program (SPRP). Reviews conducted by these state entities will also be required to focus on outcome performance measures. We recently started a review to assess the accrediting agencies' plans to implement their new responsibilities. We are also working with the Department to develop the SPRP.

4. Would you recommend that there be limits on the total amount of funding a student can receive from Pell Grants, and on the number of years they receive them?

Answer: We have for years recommended that there be specific limits on the assistance that students may receive through the Pell Grant Program to prevent it from being used without any regard for academic or vocational outcomes. We were therefore very concerned when the Higher Education Amendments of 1992 eliminated the provision that limited awards to a maximum of 5 years. Reinstatement of this provision would help a great deal in preventing program abuse.

5. Your testimony states that the $1.2 billion shortfall in the Pell Grant Program has been partially caused by the abuse of short-term proprietary schools and their use of clock hours. Has this problem been largely solved by new regulations in this area?

Answer: For clarification purposes, the abuse was caused by proprietary schools that converted their short-term programs traditionally measured in clock hours, to a credit hour measurement. The inequitable conversions allowed the programs to become eligible for, or qualify for increased Pell Grant funding.

The Department published final regulations on July 23, 1993, which require proprietary schools to provide a specific number of clock hours for each credit hour of instruction. Together with the new statutory provisions of a minimum of 15 weeks for an eligible program, we believe the majority of the abuses should eventually be eliminated.

The new regulations became effective September 7, 1993, for new program conversions. For ongoing programs, the effective date was delayed until January 1, 1994, in order to allow schools the opportunity to assure their programs meet the new regulatory requirements. We have just become aware that the Department is planning to extend the effective date for ongoing programs to July 1, 1994. For those schools that had inequitable conversions, the Department will have to require these schools to undergo eligibility redeterminations to assure the programs are in compliance.

Considering the delayed effective date of the regulations and the Department's limited resources to perform eligibility determinations, the problem has not been solved for past abusive conversions at this time.

6. Investigators of this Subcommittee have completed case studies of schools that have 99% of their students on Pell Grants. Is there a way to readily identify and disqualify such schools, since they obviously do not meet the Department's requirement of having sufficient financial resources?

Answer: The 1992 reauthorization of the HEA contains provisions to both identify and eliminate proprietary schools that are nearly fully funded by Pell and/or the other Title IV programs. For a proprietary school to be eligible for participation in the Title IV programs, it must now derive at least 15% of its revenues from non-Title IV sources. Schools now must provide annual audited financial statements, in addition to the annual Title IV program compliance audit. These audits will be the way to identify the percentage of school's Title IV funding.

For clarification purposes, prior to the HEA amendments, a school that had 99% of its students on Pell Grants could still meet the financial responsibility standards. These standards measure the school's capabilities to meet its financial obligations. Since Pell is a source of revenue to the school for tuition and other educational charges, the funds are available to pay operating expenses. Thus, Pell is a legitimate financial resource. Provided a school met its financial obligations, even a 100% Pell funded school could continue participation in the program.

7. I'm interested in your comments about the technical amendments pertaining to federal financial aid that were recently passed by the Senate. Will they allow weak schools to remain as recipients of Pell Grants, and increase losses to taxpayers? Did you testify in support of your views before the appropriate Congressional committees?

Answer: The Senate-passed amendments to which I referred in my October 28 testimony were subsequently modified in House-Senate Conference and passed as the Higher Education Act Technical Amendments of 1993. This bill, S.1507, is currently awaiting action by the President.

I remain concerned over provisions that finally passed regarding financial responsibility standards for schools participating in Federal student aid programs. In my view these provisions, contained in Section 2(i)(9) of the enrolled bill, are confusing, unnecessary and will weaken the Department's ability to limit program participation by financially weak institutions.

It is my understanding that no public hearings were held on these provisions and our views were not solicited by the authorizing committees prior to final passage of the bill. However, we did work closely with the Department in formulating the Department's positions on the bill and provided our views to the Senate Permanent Subcommittee on Investigations at the Subcommittee's request.

8. In your opinion, are there conflicts of interest between accreditation agencies and the schools they certify? Are accreditation agencies being held accountable for improper certifications of schools engaged in fraud or abuse of public funds?

Answer: Although the HEA amendments have stipulated that accrediting commissions must be separate and independent from other organizations whose primary purpose is not the accrediting of schools (e.g., lobbying groups), we believe conflicts of interest still exist between some accrediting agencies and the schools they accredit.

The accrediting commissions, assembled to determine the quality of a school's programs, are primarily made up of school administrators and/or school owners. Problems can arise if members of a commission are reluctant or unwilling to render an adverse decision against a colleague's school. Fear of reprisals could also prevent adverse decisions.

We believe that, in the past, accrediting agencies were not being held accountable for accrediting schools that abused the Title IV funds. Our audit of the Department's accrediting agency recognition process issued in 1991, found that no accrediting agency had ever been derecognized by the Department. Reviews were primarily limited to an analysis of the accrediting agencies' written procedures.

The HEA amendments now stipulate new specific performance measures that accrediting agencies must consider in their accrediting of schools. Also, during a recent follow-up review, we found the Department has expanded the scope of their reviews to focus on the actual performance of the accrediting agencies. In the future, the accrediting agencies should be held more accountable for their actions, provided the Department enforces sanctions including, but not limited to, derecognition of unreliable agencies.

9. What are some of the key indicators that Department officials should notice and take action on regarding fraudulent or abusive schools?

Answer: As I said in my testimony before the Permanent Subcommittee on October 28, 1993, the gatekeeping function performed by the Department is one key element of an effective program of fraud prevention and abuse avoidance because it gives ED the opportunity to screen out schools that have a high potential for engaging in significant program fraud and abuse before they gain program eligibility and access to billions of dollars in Federal student financial assistance.

Among the Department's responsibilities in the gatekeeping area is the responsibility to ensure that schools seeking certification to participate in ED's SFA programs have the financial resources to provide the education services offered and the administrative capabilities to manage the SFA programs. Our experience has shown that schools that are financially weak tend to be more likely to abruptly close without providing all instructional services to students and in many instances owing the students and/or Federal SFA program accounts refunds. The preceding scenario could be avoided if the Department is permitted to adopt, implement and rigorously enforce effective financial responsibility regulations. [For additional comments on this, please see my testimony].

Secondly, we have learned from experience that a "red flag" leading indicator of potential fraud and/or abuse is the rapid growth in a school's yearly Pell authorization, high dropout rates, and increasing student loan default rates. Since the Pell authorization and draw down amounts are readily available in existing ED management systems, the Department could develop appropriate computer screening techniques to identify potential problem schools and then conduct a more thorough review of the schools. Since drop rates and default rates are not as easily accessed by the Department, additional data systems work will need to be accomplished before these two indicators can provide a timely warning of potential problems.

Finally, through our inspection process we have learned that there is a wealth of information on schools that have a history of Title IV participation contained in prior reviews conducted by guarantee agencies, state reviewing authorities, and components of the Department's Office of Postsecondary Education. An organized and thorough review of this available information can identify institutions that exhibit a pattern of program abuse and at the very least alert the Department to schools which require more in-depth review or monitoring and in some instances those reports may be detailed and current enough to support administrative action against the school by the Department.

10. In your view, is the Congress too resistant to implementing the tough measures necessary to severely cut down on losses?

Answer: While the 1992 HEA Amendments contained some tough reform measures, I believe that in some instances this is, in fact, the case. For example, in the 1992 reauthorization, the House bill provided authority for the Department to demand financial guarantees for Title IV liabilities from the owner or controlling person in an institution at the outset of its participation. This provision was meant to address the problem this Subcommittee documented in its 1991 hearings of financially weak institutions which in many cases close abruptly, leaving the student without the education paid for with Federal funds and with the Federal taxpayer stuck with liabilities that cannot be recovered. While personal guarantees are a prudent and common business practice, and the Senate bill had no contrary provision, during the conference, a provision was added that effectively nullified them for Title IV programs. Section 498(e)(4) bars the Department from protecting the Federal interest in this manner up front. A school has to have four separate indications of serious financial difficulty before a personal guarantee can be demanded, at which point it would be impractical because the school would in all likelihood be closed, in bankruptcy and/or terminated from the programs and the government would have no leverage to demand financial guarantees.

Regulation of course length in light of abuses by short-term proprietary trade schools has been another area of controversy. I explained in my testimony that some such schools have abused credit hours. Recognizing this abuse and the Department's failure to correct it, the House bill reauthorizing the HEA in 1992 contained a provision that would have limited the use of credit hours, as opposed to clock hours, to two-year academic programs. This would have appropriately recognized the inherent difference between academic, degree-granting programs where non-classroom preparatory work (e.g., term papers, heavy reading assignments) justifies the use of credit hours and short-term trade programs which typically involve little or no outside preparatory work. However, in conference this provision was not adopted, and the issue was thrown back to the Department to resolve. As we explain elsewhere in these responses, the effective date of regulations to resolve this matter has now been delayed until mid 1994.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 95

STANDARDS IN THE INSTITUTIONAL QUALITY ASSURANCE PROGRAM

Prior to selecting another cohort of institutions to participate in the Institutional Quality Assurance (IQA) Program, the Department is revising its eligibility criteria to strengthen performance-based requirements for participation.

The Department selected the last cohort in 1993. To be selected for participation, in addition to meeting the criteria related to size/volume, an institution must "have submitted and had approved by the Secretary its most recent audit report in which the reported liability was less than $150,000." That criteria is only the start of fiscal and management standards and accountability required of IQA Program participants.

A participating institution must develop and implement a quality assurance system in connection with its administration of the Title IV student aid programs. On an annual basis the institution must (1) evaluate its current procedures for administering the Title IV, HEA programs and implement actions or practices to improve vulnerable procedures ("management assessment activities"); (2) use a randomly selected student sample to identify variances in data items and student aid awards that result from its current verification policies and procedures ("annual measurement activities); and (3) design and implement changes or corrections to its verification and awarding procedures that will enable it to eliminate or significantly reduce those variances ("corrective action activities").

Institutions report on their progress and findings to the Department three times a year through an established reporting mechanism. When the Department detects problems or an institution is not fulfilling the terms of the IQA Participation Agreement, it is put on notice. If problems cannot be resolved to the satisfaction of both the Department and the institution, the Department reserves the right to remove an institution from the IQA Program.

To expand the IQA Program methodology for 1995-96, the Department has already identified additional areas of institutional performance in which a commitment to quality assurance is vitally important, and where performance of an institution will be continually monitored. Among these areas are (1) institutional and program eligibility; (2) selected general administrative and fiscal standards; (3) refund and repayment policies and procedures; and (4) management of federal cash.

Participants in the Institutional Quality Assurance Program

Region I

Boston University
Harvard University
Massachusetts Institute of Technology
University of Connecticut

Region II

Binghamton University
New York University
State University College at Brockport
State University of New York at Albany
State University of New York at Stony Brook
Bryant & Stratton Business Institute Inc.
Rutgers - The State University of New Jersey
State University College at Buffalo
State University of New York at Buffalo
Syracuse University

Region III

Art Institute of Pittsburgh
George Mason University
Montgomery College
Old Dominion University
University of Maryland - College Park
Virginia Polytechnic Institute & State Univ.
Baltimore City Community College
Georgetown University
Norfolk State University
Temple University
The Pennsylvania State University
Virginia Commonwealth University

Region IV

Art Institute of Atlanta
Austin Peay State University
Georgia Southern University
The University of Alabama
The University of North Carolina at Wilmington
Tuskegee University
Art Institute of Fort Lauderdale
Central Piedmont Community College
The University of North Carolina at Greensboro
The University of North Carolina at Charlotte
The University of Tennessee - Knoxville
University of Florida

Page 2 -- Participants in the IQA Program

Region V

Ball State University
Cuyahoga Community College
Indiana University - Bloomington
Loyola University of Chicago
Ohio Auto/Diesel Technical Institute
University of Minnesota - Duluth
University of Notre Dame
Central State University
Indiana Univ. - Purdue Univ. at Indianapolis
Kent State University
Moorhead State University
Purdue University
University of Minnesota - Twin Cities
University of Rio Grande

Region VI

Art Institute of Houston
Texas A & M University
Oklahoma State University
University of Texas - Austin

Region VII

Creighton University
University of Missouri - Columbia
St. Louis University
University of Nebraska - Lincoln

Region VIII

Colorado Institute of Art
Metropolitan State College
University of Utah
Colorado State University
University of Colorado at Boulder

Region IX

Arizona State University
Mt. San Antonio College
Pasadena City College
The University of Arizona
University of California - Irvine
University of California - Riverside
University of California - Santa Cruz
University of Southern California
ITT Technical Institute
Northern Arizona University
Stanford University

- University of California - Berkeley
- University of California - Los Angeles
- University of California - Santa Barbara
- University of Nevada - Las Vegas
- University of the Pacific

Region X

- Boise State University
- Clark College
- Idaho State University
- Portland State University
- University of Idaho
- Washington State University
- Central Washington University
- Olympic College
- Southern Oregon State College
- University of Washington
- Western Washington University

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 96 ב״ה

Yeshiva Administrators of Financial Aid

900 Forest Avenue
Lakewood, NJ 08701

(908) 370-1631
FAX (908) 364-7627

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November 22, 1993

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MAJORITY OFFICE

Honorable Sam Nunn, Chairman
Permanent Subcommittee on Investigations
SR-100 Russel Senate Office Building
Washington, DC 20510

Dear Senator Nunn,

The Yeshiva Administrators of Financial Aid (YAFA) is a nationally recognized professional association of financial aid administrators of traditional, mainstream Rabbinical Schools founded in 1982. Our organization has over 50 members and is the major forum for training and technical assistance to our institutions in the area of Title IV program administration.

We are writing to you today to ask your assistance in correcting a serious problem (to us) that has resulted from the use of misleading terminology by your committee. We would also like to offer some general comments on the entire "Judaic-studies" situation.

The Term "Yeshiva"

The Committee and GAO staff refer to the schools under investigation as ***"Yeshiva or Yeshiva-related"***. Despite the Webster's dictionary definition, the fact of the matter is that the term ***Yeshiva*** has a very narrow and specific meaning in common usage when applied to Jewish institutions of higher education. This universal understanding of the term ***Yeshiva***, as applied to a higher education institution, is: **a full-time rigorously structured and supervised on-campus program of advanced Talmudic and related scholarship under the direction of leading scholars in the field.**

Your committee's investigation focused on two types of Jewish-related schools, "immigrant culture programs" and "independent study programs". Neither of these types of programs are referred to within the Jewish community (or without for that matter) as Yeshivas, Yeshiva programs or Yeshiva-related. Not by students, not by faculty, not by the public and not by the institutions themselves. They are simply not Yeshivas in any understood meaning of the word.

This is not just a question of petty semantics, as the word is not obscure but has very real meaning and implication, especially in the New York City area. We understand the difficulty in finding the proper terminology to neatly describe the institutions under investigation, but clearly the word ***Yeshiva*** is not the proper term. The fact that some of these institutions under investigation may inaccurately self-describe themselves as Yeshivas only serves to heighten the damage done as they piggyback on the reputation of Yeshivas.

As an observer of the recent hearings, I was very pleased to note that Sen. Cohen and yourself made the distinction several times between reputable Yeshivas and the schools under investigation. Unfortunately this effort is negated by the broad use of the term *Yeshiva* by official bodies investigating "immigrant culture" and "independent study" schools. The public and the press simply do not make the fine distinctions. For example, one official has been quoted to us as saying: "A Yeshiva is a Yeshiva and a beard is a beard". A prominent newspaper headlined the scandal as "Yeshivagate". Unfortunately, we do not live in a perfect world and the loose usage of the word *Yeshiva* gives fodder to the rabble-rousers who would use every opportunity to denigrate reputable Yeshivas, the Jewish religion and the Jewish community.

General Comments

Our institutions are proud to stand on our record of educational accomplishments, program integrity and contribution to the national mosaic. We have a superb record going back many years, as demonstrated by the successful outcomes of our alumni and by countless reviews and examinations.

During the last two years we have communicated on numerous occasions our communal distress in light of the recent allegations of fraud and abuse in some so-called "Judaic studies" schools. We have also condemned in the harshest terms the occurrence of any alleged fraud and abuse. These communications have been both in writing and in person to Department of Education officials in the New York regional office as well as in Washington, with the GAO and IG staff investigating this area and with the press.

In a very real sense we also feel victimized by a small group of individuals and organizations who have allegedly acted in a grossly irresponsible manner. Among our colleagues and peers in the Jewish community, in the educational establishment, and with the public at large we have been put on the defensive and been forced to answer for behavior which, if true, is repugnant to our traditions and sensibilities.

One of our great scholars, Rabbi Moshe Feinstein (d. 1986), who was universally recognized as the leading authority on Jewish law and practice in recent times, published a widely distributed Responsa on the subject of the very high level of integrity required in the administration of taxpayer funds, and specifically educational assistance funds. As president of the Association of Rabbinical and Talmudic Schools (AARTS) -- the widely recognized accreditation agency for mainstream rabbinical schools -- he was particularly familiar with the issues. Below is a excerpt from that Responsa.

> **(Excerpted from Iggros Moshe, Choshen Mishpat, Vol. II Chapter 29**
> **Free Translation from Hebrew by Moshe Z. Weisberg)**
>
> Concerning the kindness that the American government has shown to the Jewish people by providing a haven to our persecuted brethren [after World War II] and thus nurturing the rebuilding of the great Torah institutions that were destroyed; and in conjunction with the compassionate mission of thus [U.S.] government of true kindness to provide educational assistance to its citizens, including students of Yeshivas; it is certainly appropriate to bestow blessings of peace and prosperity to the nation and to those who are its leaders.

> We are cautioned by the Divine Law from any abuse and excess in the administration of these [education] programs, despite the fact that others may look away or bend the rules in their behalf. For in addition to the serious transgressions of thievery, lying and deception these actions will result in the defamation of the name of the Al-mighty, His Law, the scholars who study it and their students. There is absolutely no place for any leniency.
>
> Although the leadership of our Yeshivas are not, G-d forbid, suspected of such activity -- nevertheless -- I still find it proper to reiterate these points so that our administrators can be extra diligent in assuring that no improper expenditures are accrued to our government in the administration of federal programs.

As an organization, and as individual institutions, we have strived to live up to that sacred charge.

In conclusion, we again affirm our commitment to administer the federal programs under our auspices with honesty, integrity and professionalism. We unequivocally condemn any alleged fraud and abuse -- wherever it may exist -- as a grave violation of both our civic and religious obligations. At the same time, we feel that the usage of the word ***"Yeshiva"*** by the Committee and the GAO in connection to the programs currently under investigation may be pejorative and misleading and is causing great harm to innocent, reputable Yeshivas. We respectively request that the usage of this term be discontinued when referring to "immigrant culture" and "independent study" programs.

Thank you for your consideration.

Respectfully Yours,

Moshe Zev Weisberg

Moshe Zev Weisberg, President
Yeshiva Administrators of Financial Aid

cc
Honorable Senator Edward M. Kennedy
Honorable Senator Claiborne Pell
Honorable Senator William S. Cohen
Honorable Senator Joseph I. Lieberman
Honorable Representative William D. Ford
Dr. David A. Longanecker
Mr. James B. Thomas, Jr.
Mr. Richard C. Steiner
Mr. Robert McKeirnan
Dr. Bernard Fryshman
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United States Senate
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GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

February 3, 1994

Moshe Zev Weinberg
Yeshiva Administrators of Financial Aid
900 Forest Avenue
Lakewood, New Jersey 08701

Dear Mr. Weinberg:

The Subcommittee is in receipt of your letter regarding your concern over the use of the term "yeshiva" during the Subcommittee's recent hearings on fraud and abuse in the Federal Pell Grant program.

While I appreciate your sensitivity to the misperceptions which could arise from the misuse of the "yeshiva" label, I believe that the Subcommittee went to great lengths to prevent these types of misperceptions. In both its written and oral testimony, the Subcommittee Staff was scrupulous in its avoidance of the term "yeshiva" when referring to the Immigrant Culture and Judaic Studies programs which were the subject of the Subcommittee's investigation.

When the term was used in testimony by representatives of the General Accounting Office (the "GAO"), I asked that they define exactly what they meant by their reference. In response, they stated that they were using the term only to apply to the particular institutions they had investigated, and that they did so because these institutions referred to themselves as yeshivas. Moreover, the GAO pointed out that their usage of the term "yeshiva" was based on the Random House Dictionary definition of that term, and that the schools they described fit that definition. Nevertheless, the GAO emphasized that their usage was not meant to apply to any institution other than those they investigated and described in their testimony.

As you yourself point out, both Senator Cohen and I attempted on several occasions to distinguish between reputable yeshivas and those institutions which were the subject of the Subcommittee's hearing. Despite these efforts, I understand your concern that confusion and misperceptions may continue. The Subcommittee will be mindful of this concern as it proceeds with its investigations in this area. In addition, your letter will be added as an exhibit to the official record of the Subcommittee's hearing on this matter.

I thank you for bringing your concerns to the attention of the Subcommittee. I also thank you for expressing your organization's commitment to honesty, integrity, and professionalism in the administration of federal student aid programs, and its condemnation of any abuse of these programs.

Sincerely,

Sam Nunn, Chairman
Permanent Subcommittee
on Investigations

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